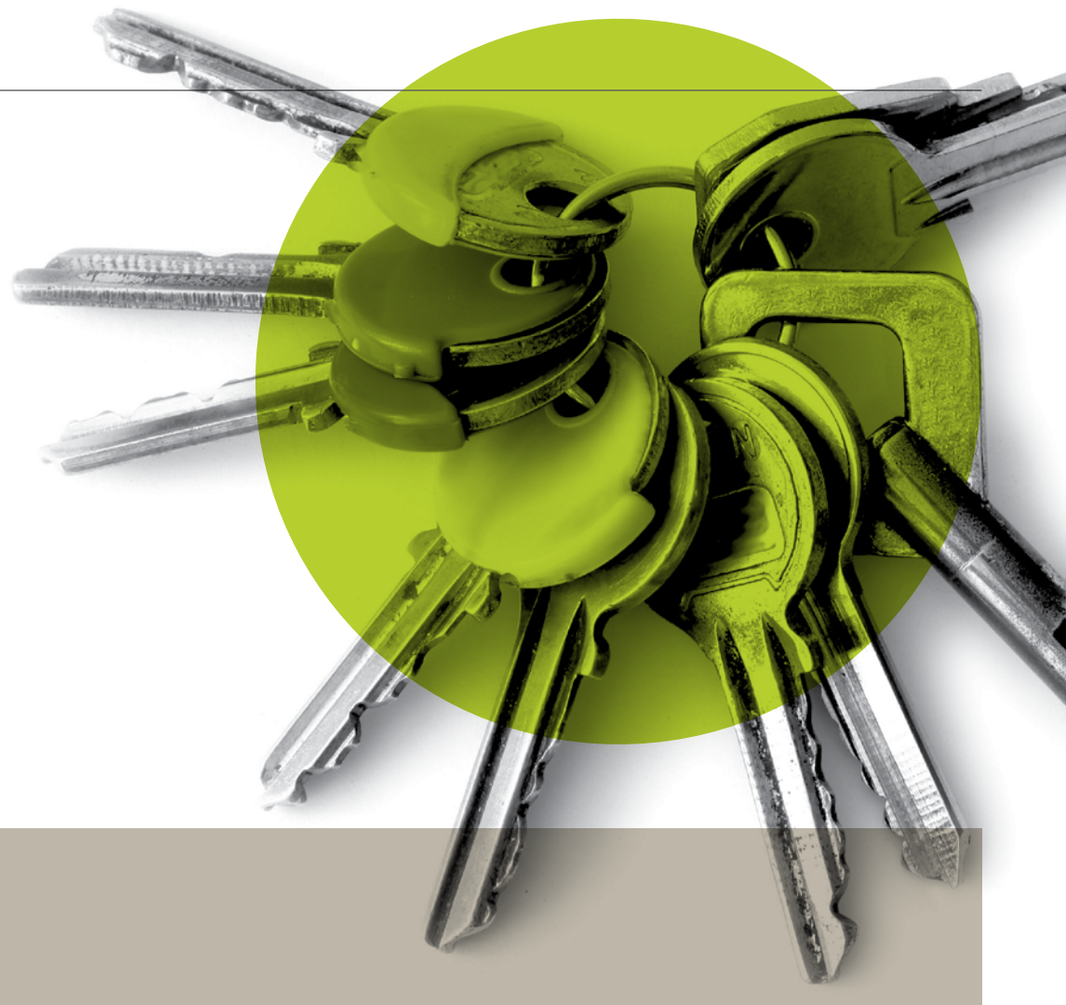
National Council for Voluntary Organisations

Campaigning Effectiveness

Voicing your right to know:

A guide to using Freedom of Information in campaigning



Campaigning Effectiveness, NCVO
October 2010
Philip Hadley

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Overview

About us

Campaigning Effectiveness, NCVO supports and empowers people and organisations to change their world through campaigning and influencing policy. We bring together experience and expertise and drive excellence in campaigning and policy work across civil society by providing support, knowledge, tools and resources.

For further information about our work go to www.ncvo-vol.org.uk/campaigningeffectiveness

This resource has been produced by Campaigning Effectiveness, NCVO as part of the campaigning and advocacy work stream funded by Capacitybuilders.

What is campaigning and influencing?

You might call it influencing, voice, advocacy or campaigning, but of all these activities are about creating change. At NCVO we use the word campaigning and define this as the mobilising of forces by organisations or individuals to influence others in order to effect an identified and desired social, economic, environmental or political change.

Whatever you call it and whether you are trying to save a local community centre from closing or lobbying government, campaigning is about creating a change. The impact is the real change created by a campaign – the difference it makes to people's lives.

About the author

Philip Hadley coordinates research into effective voluntary and community sector campaign strategies for Campaigning Effectiveness.

Philip has worked previously for NGOs in India and the UK. He plays the trombone and can often be seen cycling around London, though he has yet to perfect doing both simultaneously.

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Acknowledgements

This guide would not have been possible without the valuable and insightful contributions made by the individuals and organisations who agreed to share their experiences of Freedom of Information. Their experiences are presented through several case studies, on which the guide is based. In particular I would like to thank Helen Kirrane, Sasha Daly, Nick Hildyard, Simon Birkett, Ian Prichard, Ann Feltham, Sarah Waldron, Gerry Facenna, Laura Elizabeth John and other individuals from the organisations from which they belong.

Further thanks to all of the campaigners who took the time to complete the survey questionnaire, and to Katy Swaine, Andy Glyde, Richard Taylor & Alex Skene, William Summers, Laura Gyte, Maurice Frankel, Kevin Dunion, Graham Smith, Albert Chan, Ealing Borough Council & Mr Alan Fenton for providing such interesting and thoughtful comments.

Last but not least, thanks to my colleagues at NCVO for their helpful support and advice, in particular Susie Rabin, Amelia Gudgion, Davinder Kaur, Belinda Pratten, Ann Blackmore, Elizabeth Chamberlain, David Kane and Ellie Brodie.

Glossary

Term
Description

CAAT
Campaign Against Arms Trade

CCAL
Campaign for Clean Air in London

CFOI
Campaign for Freedom of Information

ECGD
United Kingdom Export Credit Guarantee Department

EIR
Environmental Information Regulations

FOE
Friends of the Earth

FOI
Freedom of Information

FOIA
Freedom of Information Act

GLA
Greater London Authority

ICO
Information Commissioner's Office

MOU
Memoranda of Understandings

NCVO
National Council for Voluntary Organisations

NGO
Non-governmental organisation

PEST
Political, Economic, Social and Technological analysis

RNID
Royal National Institute for Deaf People

SIC
Scottish Information Commissioner's Office

SWOT
Strengths, Weaknesses, Opportunities and Threats analysis

UCL
University College London

UKTI DSO
United Kingdom Trade and Investment Defence and Security Organisation

VCO
Voluntary and Community Organisations

VCS
Voluntary and Community Sector

Tribunal
Information Tribunal – First Tier and Upper Tier

KHRP
Kurdish Human Rights Project

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Foreword

Campaigning is a critical element of civil society. It is a way of making our voices heard, establishing rights, and changing behaviour or the law. It is one of the tools we use to help build the good society.

The Freedom of Information Act (FOIA) and the Environmental Information Regulations (EIR) both came about as the result of many years of campaigning by individual citizens and voluntary and community organisations. NCVO, in partnership with the Ashridge Centre for Business and Society, published a report on the potential of the FOI Act. As that report predicted, these Acts are now themselves an important part of our campaigning armoury.

This new guide demonstrates how Freedom of Information can be used as a powerful and versatile campaigning tool at a local or national level, whether to develop the content of a campaign or to gain crucial information on how decisions are made. It shows how campaigners are at the forefront of developing our 'right to know', making government more transparent and exploring key challenges.

I want to thank the organisations who worked with us to produce such valuable case studies, and the individuals who contributed to the research.

I hope you find this guide useful. Now more than ever we need to make sure the voices of citizens and communities are heard.

Sir Stuart Etherington
NCVO Chief Executive
October 2010

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Executive summary

We have found that Freedom of Information (FOI) is a very powerful, versatile and complementary campaigning tool that voluntary and community organisations (VCOs) are at the forefront of developing. This is the central finding of five case studies alongside a survey of 45 campaigning organisations. While FOI came into force under a Labour Government, its importance has been recognised by the present Conservative-Liberal Democrat Coalition Government, in their aim to "extend the scope of the Freedom of Information Act to provide greater transparency."[1]

Using FOI in campaigning is crucial to achieving greater transparency – through a constructive process, which can bring both significant campaign gains alongside increased accountability. The guide echoes the findings of previous research by NCVO, that the Voluntary and Community Sector (VCS) have used FOI extensively and there is an even greater potential and appetite for further use.[2]

This guide shows that FOI is a tool which can complement other methods of campaigning and is useful for a variety of purposes at a local or national level, chief among them research and advocacy – to the public, local and national government and in gaining media interest.

The case studies explore how FOI has been used in different ways – for example as a survey tool aimed at gathering information from local authorities and NHS neo-natal units, as well as an advocacy tool to gain insight into how policy is developed, how decisions are arrived at and what public money is being spent on. The guide explores how FOI can be used to build understanding and inform campaign agendas, to feed into research, publications and policy work with MPs, Peers and the public, as well as to gain media coverage and support the work of local campaigners.

But using FOI has not been without difficulties. Campaigners have often found that the quantity and quality of information has been insufficient, that significant delays are common in receiving information and that it is often very resource-intensive to follow-up requests. Furthermore, the guidance available from public authorities leaves some issues such as the right to publish copyright FOI information unclear. Though they consider FOI to be worthwhile and effective, some organisations have experienced a negative effect on their working relationships following making FOI requests.

While the appeals system is a key benefit of FOI it has also been a frustration to campaigners, particularly in terms of drawn-out internal reviews and, while the Information Commissioner's Office (ICO) can be helpful and is an important resource for campaigners, it has often taken a long time to reach decisions. Key to appealing is persistence and determination as the rewards can be well worth it.

There was also a definite need found for legal support and advice for campaigners, as central to the appeals of the case study organisations was recourse to free legal support, particularly with regard to appeals to the Information Tribunal.

Despite these challenges the campaigners interviewed and those surveyed thought that FOI is a powerful campaigning tool and has huge potential in the future. A common reason for using FOI was a frustration with a lack of progress through other methods. FOI can be extremely cost-effective – at the cost of writing a letter it can transform a campaign in its foundation – through content, and in its reach – through advocacy.

It is crucially important however to consider strategy – to question why as a campaigner you wish to use FOI, to conduct PEST and SWOT analyses and mapping exercises to explore routes of influence[3] and to complement FOI with other tools where appropriate. There is huge potential for higher uptake of the FOIA and EIR by campaigners, as the following case studies show, campaigning with FOI can be a very engaging and rewarding process.

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Overview

Conclusions on a page...

- FOI is a powerful, versatile and complementary campaigning tool
- It is quite clear how powerful a tool FOI is in campaigning, the benefits of which outweigh the challenges

Why use FOI?

- Frustration with a lack of progress in campaigning through other means
- FOI can be used to build a body of research, as well as a way to engage the media in your campaign
- Engaging supporters via new social media, publications or other methods
- FOI is a powerful advocacy tool to gain information about policy issues and how decisions are arrived at
- FOI is one of a range of tools in the campaigning toolkit

Challenges to FOI

- The quality and quantity of information received is often insufficient and response rates vary
- It may be necessary yet resource intensive to follow-up requests to gain information
- While FOI is a 'right to know', if in doubt, seek consent if you wish to publish copyright information
- It is important to frame a request appropriately, and ask for specific recorded information, referencing specific time periods if possible
- It may be worth considering other tools if the information can be gained another way

Appeals

- Persistence and determination are crucial to any successful appeal
- Making appeals can be time-consuming
- Legal assistance is often crucial for appeals to the Information Tribunal, especially if the appeal is complicated

Final thoughts

- Developing a campaign strategy, along the lines suggested by the Good Campaigns Guide is crucial to making FOI requests[4]
- It is important to see FOI requests as useful for a variety of purposes at a local as much as a national level
- Research on the effectiveness of FOI in campaigning is in its infancy, this guide demonstrates a need for ongoing impact assessments and learning opportunities
- While FOI has been used significantly by voluntary organisations in campaigning, there is a potential for higher uptake
- Voluntary organisations are at the cutting-edge of using FOI in campaigning

1. HM Government (2010) *The Coalition: our programme for government* (London, HM Government), p. 11
2. Pratten, B. (NCVO) and Gribben, C. (Ashridge Centre for Business and Society) (2005) *Called to Account: The impact of the Freedom of Information Act* (London, NCVO), p.7
3. See Kingham, T., and Coe, J., NCVO (2007) *the good Campaigns Guide: Campaigning for Impact* (London, NCVO), pp. 27-33
4. Kingham, T., and Coe, J., (2007) *The good Campaigns guide: Campaigning for Impact* (London, NCVO)

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Introduction and overview

"Good government is open government, and good government is effective government... Our long-term goal is to strengthen the link between the state and the citizen."[5]
Lord Falconer, Secretary of State for Constitutional Affairs, 1 January 2005.

- For an overview of the Freedom of Information Act please refer to the guidance by the Information Commissioner's Office.
- For information on the FOIA and the EIR including how best to make a request please refer to the Guide by NCVO, as well as the Users Guide and Right to Know handbook by the Campaign for Freedom of Information (CFOI) and Friends of the Earth (FOE), respectively.
- For further information, please refer to the 'Resources' section.

While opening up government and making more effective government are perhaps the most crucial aims to, and value of, Freedom of Information legislation, FOI is first and foremost a right. It is a right to know about information that affects our lives, as well as an opportunity for campaigners to use that information to further positive social change.

But how should we use FOI in campaigning? Core aims of the legislation are to increase transparency, accountability, public participation and confidence in government. However, as a previous report by NCVO and the Ashridge Centre for Business and Society noted, "Less attention has been given to the Act's potential to support campaigning and lobbying outside of the media spotlight, by voluntary and community organisations,"[5] who are crucial, it is argued, in achieving such aims.

The report, *Called to Account*: *The Impact of the Freedom of Information Act*, was based on a survey of the voluntary sector in 2005 just after the Act had come fully into force.

One of the major findings was that while a significant number of voluntary and community organisations had used the Act and more intended to do so, there was "a need for practical advice and guidance about the Act and how it works", with regard to its use by VCOs "to inform campaigning activities."[6] This guide has been written with this need in mind.

Though UK FOI legislation covers England, Wales and Northern Ireland (Scotland has separate legislation), this guide is aimed primarily (but not exclusively) at voluntary and community organisations in England, reflecting the geographical focus of NCVO.

Legislation

FOI legislation gives us access to non-personal[8] recorded information held by or on behalf of central government, local authorities and other public bodies, which is not already available through other means; all public authorities are now required to produce a Publication Scheme detailing specified types of information they hold and how to access it.

The FOIA is supplemented by the EIR, which gives people a right to know about environmental matters. FOIA allows for the withholding of information where other legislation prevents disclosure, whereas EIR actually overrides prohibitions contained in other laws, if applicable.

The onus in the legislation is quite clearly in favour of disclosure; if requests are rejected they are done so via either absolute or qualified exemptions – the latter requiring the application of a public interest test.[9] Public authorities are also required to respond to requests within 20 working days.[10] Appeals can be made first for an internal review by the public authority, then to the ICO and if need be litigation can be pursued to the Information Tribunal, and potentially to the High Court; for the latter solely on points of law.

5. Lord Falcorner, quoted in *BBC News* (2005) 'Right to information becomes law': http://news.bbc.co.uk/1/hi/uk_politics/4139087.stm
6. NCVO & Ashridge (2005) *Called to Account*, p. 9

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Available information

While guidance for public authorities and the public is easily accessible and online, such as that by the ICO, there is a relative dearth of information aimed at campaigners. Key resources however are the CFOI and FOE, both of whom have useful guides for campaigners with particular regard to the specificities of the FOI and EIR Acts, which this guide does not seek to replicate but rather complement. For a full list of resources please refer to the 'Resources' section.

In terms of requests made, recent statistics released by the Ministry of Justice reveal that in 2009, "monitored central government bodies received a total of 40,548 non-routine FOI and EIR requests – a 16 per cent increase on the number received in 2008."[11] *Called to Account* revealed that in 2005, the year the Act was implemented, 18,000 voluntary groups used FOI at least once in the first year and 50,000 bodies planned to use it in the future.[12]

"Although FOI has now spread to some 75 countries around the world, it has been surprisingly under-researched." There is however a growing body of research, for example by UCL.[13] While statistics are collected on the number of requests in the UK, there has not been a substantial analysis of impact – particularly of a qualitative nature. Statistics concerning the number of requests made to public authorities outside of central government are also not collated centrally.

Good government is open government?

Opening up government poses huge opportunities for campaigning, both in methodology and in achieving aims. Richard Thomas, Information Commissioner from 2002 to 2009 reiterated Lord Falconer's remarks, arguing in 2007, "good government... [has not]...proved to be incompatible with transparency...open government is good government."[14]

Campaigning journalist Heather Brooke has argued in her useful FOI guide *Your Right to Know*, "The new openness laws have not overloaded public services or led to the collapse of government."[15] CFOI have reported a multitude of press stories generated based on FOI requests[16], to the point that, as the former Information Commissioner observed, "Scarcely a day goes by when there is not a newspaper story along the lines "Information disclosed under the Freedom of Information Act reveals that..."[17]

7. NCVO & Ashridge (2005) *Called to Account,* p. 27
8. If an individual wishes to access their own personal data, requests should be made via the Data Protection Act, for further guidance please follow this link to the ICO's guidance.
9. The EIR has only qualified exemptions, which if cited always require a Public Interest Test.
10. There are a limited number of factors which may extend this, please see the ICO guidance referenced at the end of the guide.
11. 'Non-routine' refers to requests which qualify as either FOIA or EIR requests. Ministry of Justice, 'Freedom of Information Act 2000: 2009 Annual Statistics on implementation in central government', *Ministry of Justice Statistics Bulletin,* 29 April 2010, p. 4:
12. *Called to Account,* p. 7
13. Hazell, R. and Worthy, B. UCL Constitution Unit (2009) *Impact of FOI on central government: Constitution Unit end of award report to ESRC,* p.1: See https://www.ucl.ac.uk/constitution-unit/research/foi/ESRC-end-of-award-report
14. Thomas, R. (2007) *Open government is good government,* speech at Northumbria University. pp. 1-2
15. Brooke, H. (2005) *Your right to know: A citizens guide to the Freedom of Information Act* (London, Pluto Press), p. 10
16. Matthew J, Robison, R., CFOI, *1000 FOI Stories from 2006 and 2007.* See *http://www.cfoi.org.uk/pdf/FOIStories2006-07.pdf*
17. Thomas, R. (2007) *Open government,* p. 1

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Methodology

This guide offers an opportunity to explore themes in using FOI, the impact and potential of the FOIA and the EIR, as well as the benefits and challenges to using FOI in campaigning. By focusing on five case studies of requests made by organisations that have exercised our right to know, we can shed light on experiences of 'open' and 'good' government. These case studies are based on interviews with campaigners from those organisations and others involved with the FOI requests. The case studies are supplemented by a survey of the use of FOI by 45 voluntary organisations, to gain an insight into characteristics of the use and potential use of FOI throughout the voluntary and community sector.

Lastly, the guide features eleven comments by individuals from VCOs and public sector organisations on experiences of FOI, highlighting key issues for campaigners.

It is important to emphasise that FOI requests can be a very straightforward, simple and cost-effective way to gain information as well as a powerful advocacy tool. Appealing a decision can also bring dividends at the expense of a letter, as with a request. We hope this guide will encourage you to do both.

The case study organisations are:

- Bliss
- TreeHouse
- The Corner House
- Campaign for Clean Air in London
- Campaign Against Arms Trade

The aim of the guide is to:

- Explore the use and potential use of Freedom of Information in campaigning;
- Understand key challenges and benefits to using FOI as a campaigning tool;
- Explore how and in what way voluntary and community organisations are using and/or planning to use FOI in campaigning;
- Develop key learning points for VCOs to use FOI in campaigning.

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Survey findings

The survey gathered responses from a range of voluntary and community organisations whose work involves campaigning, receiving 45 in total. They were of different sizes (in terms of income) with more small and medium (33) than large and major sized organisations (12), fairly representative of the voluntary sector.[18]

The results from this survey enable us to provide an informative snapshot of the use of FOI by campaigning organisations.[19] Thirty-eight respondents had made FOI requests, while 39 intended to. Furthermore, all but one of those who had not made an FOI request expressed a desire to do so in the future. This represents a very high use of FOI now and, we can predict, a significant rise in the future.[20]

Both small and large VCOs have been making requests to different types of public authorities. Seven campaigners reported making requests to *all* types of public authorities listed below.[21]

While *Called to Account* found a much higher percentage of requests to central government, this survey found only a slightly higher number.

	Central government	Local government	Other public bodies	Requests to several types
Current use	21	20	16	12

18. Small – incomes below £100k; medium – between £100k and £1m; large £1m to £10m; and major – over £10m. This follows the categorisation in Wilding et al., (2010), *The UK Civil Society Almanac 2010* (London, NCVO), p. 24
19. There are no available statistics on the total amount of campaigning organisations in existence though the *Almanac* reports 138, 721 voluntary and community organisations active in 2007/08.
20. The respondents were invited to participate through two NCVO e-newsletters, via the Forum for Change website, an e-newsletter sent by the CFOI and a post on the UK Freedom of Information blog.
21. There were 36 responses to this question regarding the recipents of past and current FOI requests.

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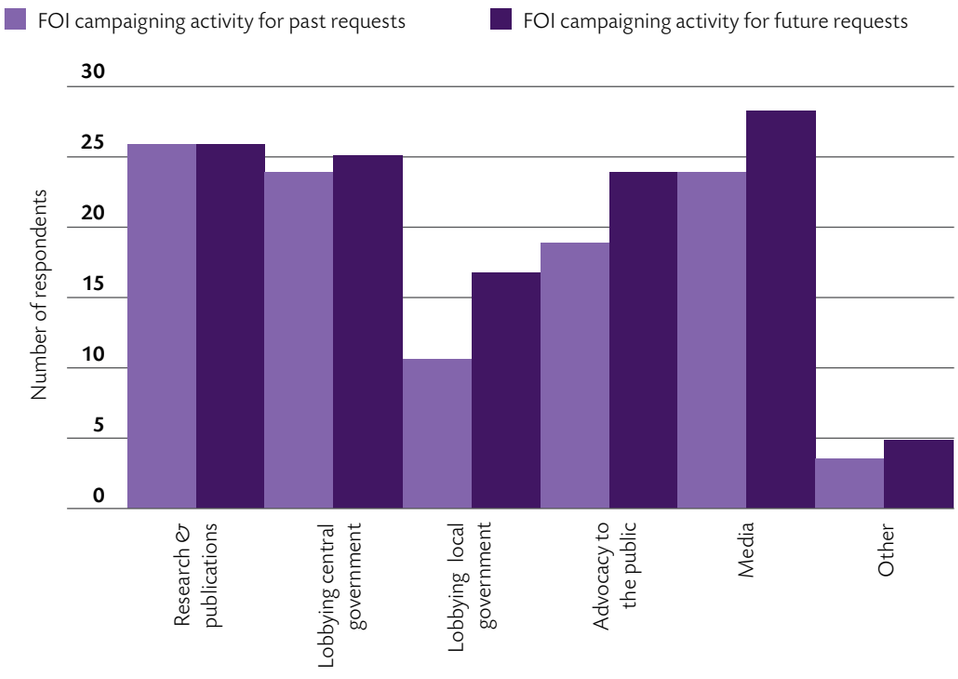
Survey findings

Campaigning activity

Most organisations used FOI as a tool to support a range of their activities:[22]



As the graph indicates, most campaigners intend to use FOI for similar activities as they have been doing, which suggests FOI is very effective in those areas. A marked increase is also predicted in requests to inform lobbying, advocacy and media activities. Research was reported as the major past use for FOI requests, followed by media and lobbying central government, a finding which supports the themes in the following case studies. *Called to Account* actually predicted a rise in requests to local authorities, which is also borne out by these results as the biggest rise, proportionally.

The most common combinations of activities informed by FOI requests (in terms of current and intended use), was found to be all of the activities in the above graph except the 'other' category, which indicates a very versatile campaigning tool. For current use, this was followed by research and lobbying central government, while for future use 'all activities' was tied with 'all activities bar lobbying local government and other'.[23]

22. There were 37 responses to the question regarding current use and 40 to future use.
23. Please note: The highest number of respondents choosing the same combination of answers to any particular question for both current and future use of FOI was four; therefore patterns are not too significant.

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Survey findings

Significance of FOI to campaigning

Very insignificant	Fairly insignificant	Unsure	Fairly significant	Very significant
5	6	5	18	4

Twice as many campaigners perceived FOI to be significant to their overall campaigning activities than insignificant. While there was no particular relationship found between the perceived sufficiency of the information received from FOI requests and the types of requests made, it is interesting to note that there was, and is, a large variation in uses of FOI – that FOI is of much significance to research in particular, as well as to lobbying and for media work.

Familiarity with FOI

One of the key findings from *Called to Account* was that familiarity drives use, which is supported by this research with regard to its use as a campaigning tool:

	Very familiar	Somewhat familiar	Not at all familiar
Used FOI	14	23	0
Not used FOI	2	2	3

As noted above, most of those who had not used FOI intended to do so, which when combined with the above results indicates a need for familiarising people with FOI.

Quality and quantity of information received under FOI

Totally insufficient	Insufficient	Unsure	Sufficient	More than sufficient
3	4	10	16	3

While just under half of respondents found the information sufficient, of those who responded to this question (36), just under a third were unsure and just under a fifth thought the information insufficient, which supports the trends within the case studies. There was no significant pattern found when compared with the different campaigning activities FOI has been used to inform or is intended to inform. Of those who received insufficient information, all but one reported they had used FOI to inform and intended to use FOI to inform over four different activities.

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Survey findings

Risk, benefits and challenges

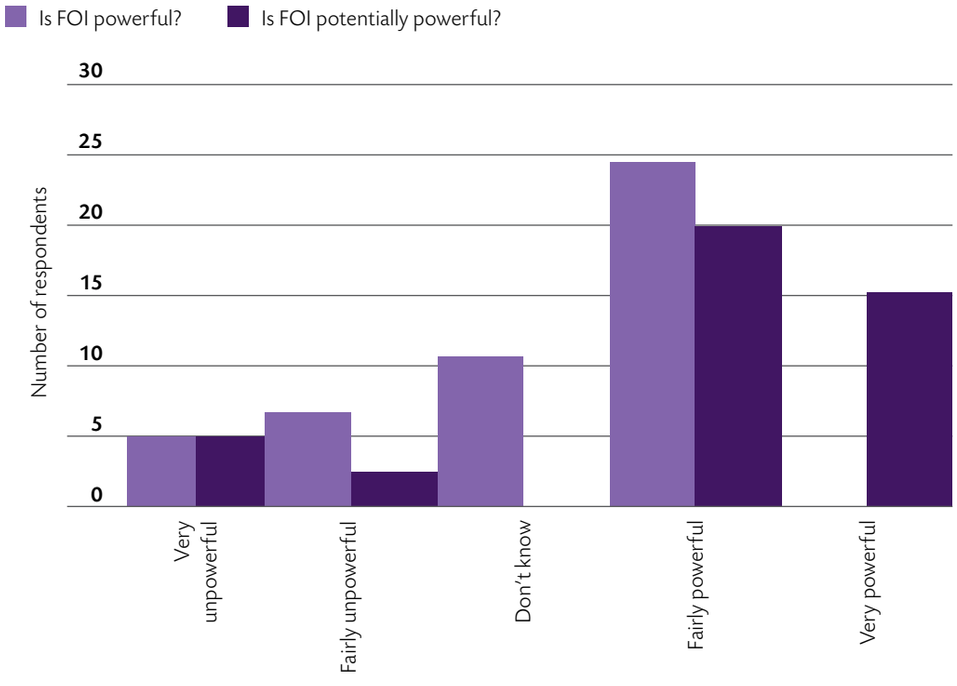
	Huge risk	Marginal risk	No risk	Don't know
Number	0	17	18	9

While a prominent number of respondents perceived there to be 'no risk' to using FOI, nearly as many believed that FOI presents a marginal risk to an organisations' mission, professional relationships and/or campaigning – this was also a key theme in the case studies.

It is important to note that of the 41 respondents who answered a further question, all but three believed that the benefits of using FOI in campaigning outweighed the challenges. While *Called to Account* reported a similar finding yet with fewer stating 'no risk', research by the Scottish Information Commissioner's Office (SIC) on the use of FOI in Scotland found a reticence among voluntary organisations to use FOI due to "a fear that it might harm working relations or funding relations or both."[24] This suggests that campaigning organisations in England recognise risk yet are growing in confidence to use what they perceive as a largely beneficial tool.

It is also significant that of those who perceived an absence of risk to FOI, only four reported using and intending to use FOI for under four different campaigning activities. This suggests that perception of risk does not depend on use in one particular activity, for example in lobbying or gaining media coverage.

Is FOI a powerful tool?



Interestingly the above graph indicates that respondents project their perceptions of the current power of FOI to the future potential of FOI as a campaigning tool; the most common answer was that FOI is and has the potential to be 'fairly powerful'. Conversely, while no-one thought FOI is at present 'very powerful', over a third thought it has the potential to be so. These answers chime well with the case studies – that while there are significant challenges to FOI, it is a powerful tool and can be even more powerful.

24. Spence, K. University of Strathclyde, (2010) *Volunteering Information: The use of Freedom of Information laws by the Third Sector in Scotland – Survey Findings*, p.5: http://www.itspublicknowledge.info/nmsruntime/saveasdialog.asp?lID=3488&sID=3210

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Survey findings

When compared with which types of campaigning activities FOI requests have informed, we find that of those who perceived FOI to be 'fairly powerful' (24), half chose three or more activities with research, lobbying central government and media featuring highly (research being the most prominent), findings which are repeated for the future use of FOI.

As mentioned, a significant emphasis was placed by respondents on the future potential of FOI to be 'very powerful'. Of the 16 participants who chose this option, ten respondents chose three or more answers with research, lobbying central government, media and advocacy prominent.

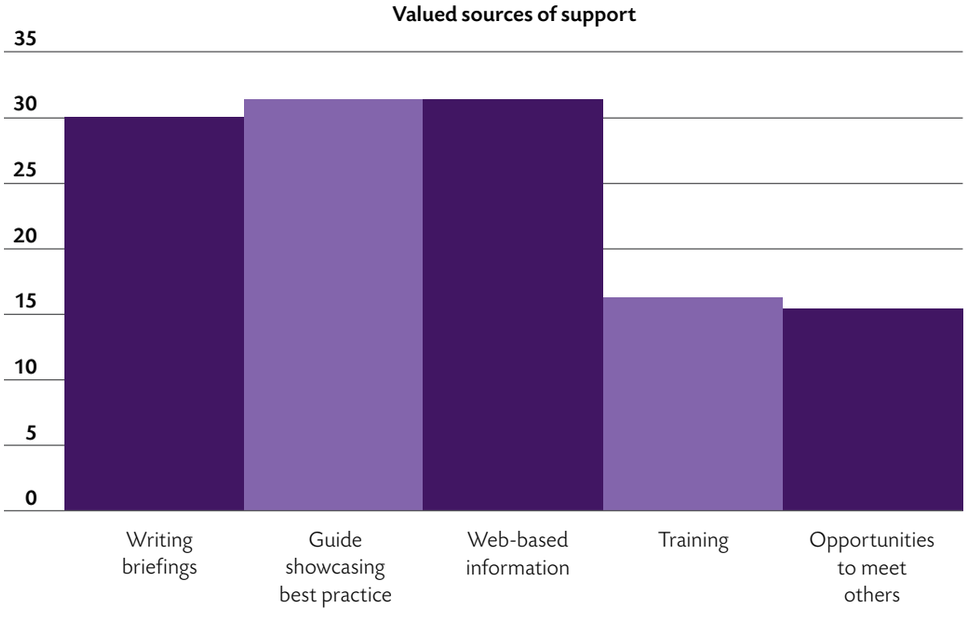
Appeals

While the following case studies found both huge benefit yet significant challenges with the appeals process, it is worth noting statistics reported by the Scottish Information Commissioner (SIC), which revealed that only 3% of applications stemmed from the category "Voluntary/campaign organisation".[25] This survey reported the following:

	Appealed to the ICO	Pursued litigation through courts
Number of respondents	7	5

Though the above finding may suggest a relatively low current use of the appeals process, we found that 16 voluntary organisations reported an appetite for pursuing litigation to obtain information and eight to establish a right to access certain information. While just under half of the respondents did not express an appetite for litigation, we did find that the more familiar organisations were with FOI as a campaigning tool, the more likely they were to make an appeal – confidence increases with use. This supports similar findings from *Called to Account* – "voluntary organisations won't take no for an answer."[26]

Support



25. The total number of appeals by VCOs in Scotland may be higher; this figure refers to the number of applicants who chose the category 'Voluntary/campaign organisation' when appealing to the SIC. Scottish Information Commissioner, *Freedom of Information Annual Report 2009*. See: http://www.itspublicknowledge.info/nmsruntime/saveasdialog.asp?lID=3616&sID=234
26. *Called to Account*, p. 23

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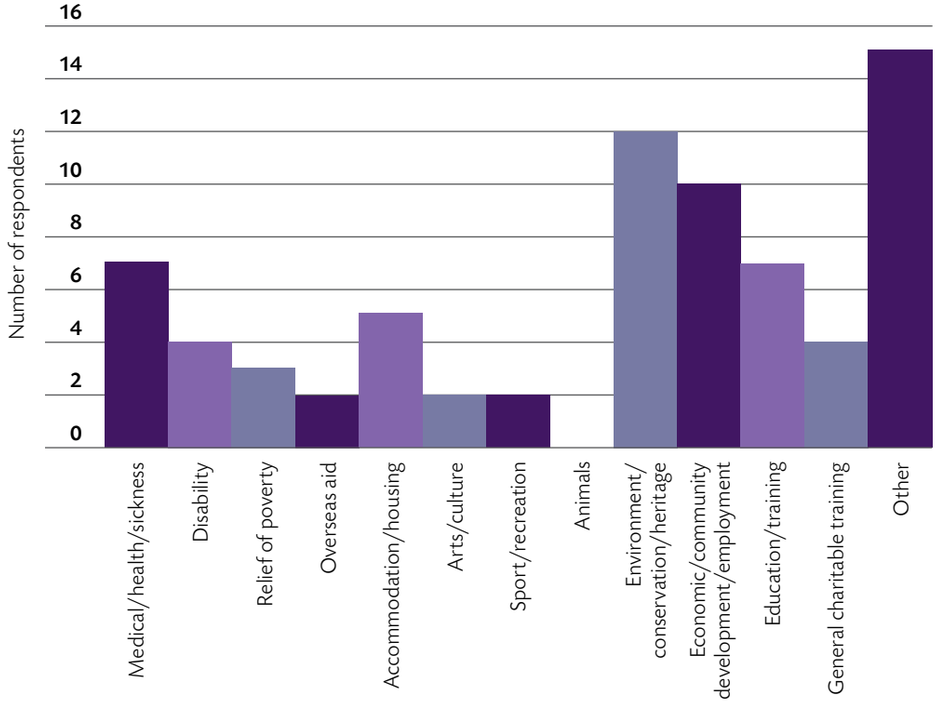
Survey findings

While most respondents chose three or more sources of support, with combinations of written briefings, a best practice guide and web-based information the most common, over half of respondents reported they were 'somewhat aware' of existing sources of help and support, with a significant amount (ten) 'very aware'. The need for more support is therefore predicated on significant experiences in using FOI, indicating that more support could be crucial in the uptake of FOI in campaigning.

Field of interest



As can be seen, the organisations that responded to the survey work in a wide range of areas, while 'other' was the largest category, a significant degree were involved in community development and environmental work, followed by education and health. This complicates previous evidence that most voluntary and community organisations using or intending to use FOI are largely health, international and/or environmentally-focused.[27]

The research indicated that a prominent amount of environmentally-focused organisations perceived there to be 'no risk' to using FOI, while most health organisations found there to be a marginal risk. Both types of organisations perceived FOI to be a fairly powerful tool, and, particularly in the case of environmental organisations, as having the potential to be a 'very powerful' tool. The responses by economic and community development organisations followed the general findings; that FOI is perceived as fairly powerful now, it can be more so in the future and that it presents marginal or no risk.[28]

It is worth setting the results of this survey beside the findings of a survey of FOI requesters by UCL's Constitution Unit which focused on the impact of FOI – that FOI "has increased transparency...[and]...accountability, though not to the same extent".[29]

27. *Called to Account,* p. 14. The 'Other' category refers to any field of interest not specified in the named categories.
28. These findings should be seen as patterns as opposed to highly significant statistical correlations between stated fields of interest and chosen responses in the survey.
29. Hazell, R. and Worthy, B. UCL Constitution Unit (2009) *Impact of FOI on central government,* p. 5

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FOI in action: The case studies

Case Studies

The following pages contain five case studies – each of a voluntary and community organisation with regard to their use of Freedom of Information in campaigning. They reveal the opportunities FOI has presented to them, the benefits they have experienced and the challenges they have faced. Based on interviews with campaigners and other individuals involved with the following FOI requests, the case studies enable us to understand how FOI can be used as a campaigning tool, from the perspective of those who have used it.

"Life can only be understood backwards; but it must be lived forwards."

Søren Kierkegaard

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Bliss

Bliss, the special care baby charity, provides vital support and care to premature and sick babies across the UK. Founded 30 years ago, they offer guidance and information at a critical time in families' lives. They also fund ground-breaking research and campaigning for babies to receive the best possible level of care regardless of when and where they are born.
www.bliss.org.uk

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Bliss

"FOI requests are a very powerful tool that Bliss has successfully used a number of times, but they need to be used in the right way. FOI has a reputation for being a 'confrontational' approach, so while an effective way of uncovering important information, it can create challenges with working relationships. That said, the impact that FOI data can make is crucial – it can really help to cut through with the media and get your message heard."
Andy Cole, Chief Executive, Bliss

Quotes are taken from an interview with Helen Kirrane, Campaigns and Policy Manager, Bliss.[30]

Perhaps one of the most significant challenges that Bliss experienced was a negative reaction from the professionals completing the Freedom of Information request. Although FOI was "really successful in producing what we wanted it to produce, the doctors that we work with found it a bit heavy-handed." In 2007 and 2008 the report was based on findings from a Freedom of Information request sent to neonatal units.

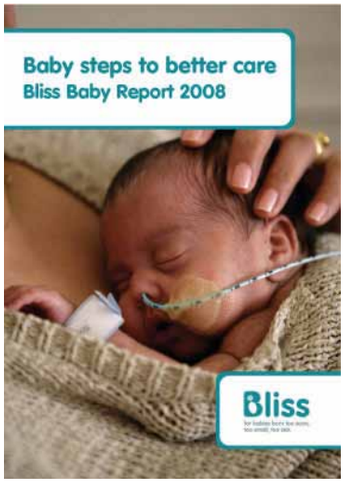
"Staffing shortages, inadequate facilities and too many inappropriate transfers mean that while babies often receive excellent care, their parents can feel neglected or in the way when they are at their most emotionally vulnerable."[31]
Baby steps to better care:
Bliss Baby Report 2008.

one to one nursing

In 2008 Bliss launched their 'One to one nursing campaign' for babies in intensive care, to harness public support for the organisation's policy aims, which was underpinned by findings from the FOI requests.

Bliss had previously commissioned research for their annual policy reports but found the timeframes to be too long and the questions not always appropriate for a policy audience.

"It was cost-effective to do FOI requests because you don't have to pay for a research organisation."



30. Unless quotes are referenced otherwise.
31. Phillipson, B and Clark, P (Bliss) (2008) *Baby steps to better care* (London, Bliss), p.17

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FOI in action: The case studies

Bliss

Challenges

Though they received a 92% response rate overall, Bliss did experience some issues regarding the quality of information, "some of the answers regarding whether hospital units were meeting care standards didn't tally with the figures they provided", suggesting that respondents were adopting caution in some of their answers.

Perhaps one of the most significant challenges that Bliss experienced was a negative reaction from the professionals completing the Freedom of Information request, although it was "really successful in producing what we wanted it to produce, the doctors that we work with found it a bit heavy-handed." For their subsequent policy report, Bliss is conducting a survey but has decided not to call it a Freedom of Information request.[32]

Bliss also found a challenge with institutional delay, some of the requests "didn't get on to the clinicians desk until the day before the deadline." As campaigners, Bliss also found that in relation to use of the Freedom of Information Act "there wasn't a huge amount of good practice to call on, nothing written down and nowhere we could go to find out what hurdles to be aware of."

Final thoughts

Despite the challenges, **"it was worth doing, it was effective with policymakers and NHS Trusts, though it's also worth experimenting with an informal request."**

32. It should be noted that the FOIA places a legal obligation on public authorities to disclose information whether 'Freedom of Information' or the FOIA Act is referenced in a request or not.

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TreeHouse

TreeHouse is the national charity for autism education. TreeHouse runs a special school for children and young people with autism, provides information and training for parents and professionals, commissions research and campaigns for change.
www.treehouse.org.uk

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TreeHouse

"TreeHouse is a keen supporter of FOI as a constructive approach to campaigning. It is important that individuals, local groups and national charities are able to find out how local services are responding to needs, so that we can identify where there are challenges and present solutions. As the Coalition Government has made it clear that more decisions will be taken locally, it is vital that TreeHouse can share its experiences of using FOI with our networks of local families, to support them as campaigners improving services for children with autism in their area."
Jolanta Lasota, Chief Executive, TreeHouse.

Quotes are taken from an interview with Sasha Daly, formerly Senior Policy and Parliamentary Manager at TreeHouse.[33]

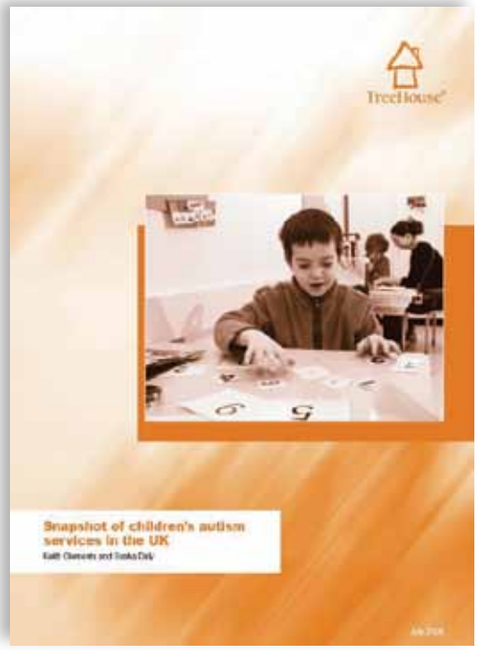
TreeHouse used Freedom of Information like a campaign, to raise awareness of an online forum aimed at parents of children with autism (Talk about Autism), but also to feed into their policy work. It was administered by a PR company to get press coverage, but the policy and parliamentary team helped to develop the questions.

"We wanted it for the press and we wanted it for wider information gathering. The exercise helped us gather evidence to help support the passage of the Autism Bill, which was a huge campaign in its own right, to become an Act."

The FOI requests were sent to the lead of children's services in every local authority, asking for information about their services for children with autism, and TreeHouse received 62 responses out of 200 requests. With a similar survey which used an informal request procedure, another organisation received 6 responses – "we felt we got a good response rate because it was a Freedom of Information request."[34]

The data was written up into a report in 2009 – *Snapshot of children's autism services in the UK*

"We have found a diverse picture and one that reflects a serious lack of consistency in areas that could and should be consistent – understanding needs, meeting needs and accountability processes."[35]



33. Unless quotes are referenced otherwise.
34. It should be noted that though this may be a good response to a survey, it does mean that 138 authorities did not fulfil their legal obligations under the FOIA.
35. Clements, K and Daly, S (TreeHouse) (2009) Snapshot *of children's autism services in the UK* (London, TreeHouse), p.17

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TreeHouse

Challenges

The FOI responses received by TreeHouse were varied – FOI is "not necessarily the most reliable source of information, but probably one of the best sources we have." While the ones that did respond did so quickly, "because of lack of resources we didn't follow up the ones who didn't respond."

When making the request, TreeHouse stressed that it was not about "naming and shaming", though they did encounter some comments from MPs who held the view that 'FOI can be resource-intensive for public authorities'. Despite this, for TreeHouse FOI "was not adversarial."

TreeHouse had never submitted an FOI request before, neither had the PR agency. They found that the Information Commissioner gave very unclear advice about publishing the information they received, but "luckily we got free legal advice which was crucial. We had to pull on the things there for us as a small charity."

Final thoughts

One of the most significant points TreeHouse found through its experience was that **"you need to think about how many questions you're asking and the information you'll get back, because it was resource intensive. It would be useful to have a guide to say these are the issues and the exemptions so you can think about them when designing questions."**

In hindsight, TreeHouse would have liked to "include a request for consent to publish information in the first mailing out."[36] TreeHouse found that it was crucial to maintain communication with whomever you are requesting information from – "there was quite a bit of going back and forth so having a named contact helped to get the information and permission we eventually needed to be able to use the information."

36. Permission is only relevant where the information is subject to copyright, and even then a reasonable extract can be published without permission under the 'fair-dealing' provision of the Copyright, Designs and Patents Act 1988, so long as the source is acknowledged. Summarising or rewriting the information in your own words may avoid issues that could arise as a result of copyright.
Please refer to the conclusions and the guidance by the Intellectual Property Office for further information:
www.ipo.gov.uk/types/copy/c-other/c-exception.htm

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The Corner House

The Corner House is a solidarity, research and advocacy organisation, focused broadly on human rights, the environment and development. They aim to pay constant attention to issues of social, economic and political power and practical strategy. As part of their solidarity work, The Corner House carries out analysis, research and advocacy with the aim of linking issues, stimulating informed discussion and strategic thought on critical environmental and social concerns – and of encouraging broad alliances to tackle them.
www.thecornerhouse.org.uk

Quotes are taken from an interview with Nick Hildyard, Co-Director of The Corner House. [37]

37. Unless quotes are referenced otherwise.

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The Corner House

The Corner House has used FOI broadly in two areas: firstly to gain information about particular projects backed by government departments such as the Export Credits Guarantee Department (ECGD), secondly at a policy level to gain information about particular policy changes.

"An important area of our work concerns the public financing of projects that have socially and/or environmentally destructive impacts overseas"...

Using the EIR, The Corner House requested a copy of the ECGD's Due Diligence and Underwriting Committee reports of a BP backed pipeline – the Baku-Tblisi-Ceyhan (BTC) pipeline. The construction of the pipeline provoked major concerns regarding its social, environmental and human rights impact from a range of NGOs, some of whom formed the Baku Ceyhan Campaign.[38]

"In my view those documents go to the heart of any consideration as to the manner in which the ECGD discharged its legal duty adequately to price its premiums...and fulfilled its obligations of ensuring that its activities accord with...its own business principles...and the UK's policies and international obligations on sustainable development and human rights."[39] Nicholas Hildyard, Witness Statement

Following a rejection, an internal review, appealing to the Information Commissioner and still receiving no information, The Corner House took the ECGD to the Information Tribunal and managed to gain most of the information it initially requested. One use of the information was to feed into policy work, for example in notifying the Business & Enterprise Committee of the implications of their findings, that it "casts serious doubt over a number of assurances given to...Parliament as a whole, by ECGD or its Minister."

Complaint by the Baku Ceyhan Campaign about the BTC pipeline

The Corner House, Friends of the Earth, the Kurdish Human Rights Project (KHRP) and Platform made a complaint against BP for breaching the guidelines of the Organisation for Economic Cooperation and Development (OECD), regarding multinational enterprises. The request was for correspondence between the OECD UK National Contact Point and other government departments about the complaint, which referred to the BTC pipeline. The Corner House received "a massive amount of information with only the names of the people who sent the emails redacted."

Some of the information formed the basis of an article in the Guardian, regarding a telegram sent by the British Ambassador to Azerbaijan in 2004 questioning the safety of the pipeline. Nicholas Hildyard commented in the article, "BP got hundreds of pounds of public money for this project."[40]

Many of the requests made by The Corner House have led to press stories, and some of its work on the ECGD has fed into submissions to the Environmental Audit Committee, which "kicked off other processes." The information was fed into the work of the Baku Ceyhan Campaign.

38. Members of the Baku Ceyhan Campaign include The Corner House; FOE England, Wales and Northern Ireland; Llisu Dam Campaign, KHRP and PLATFORM

39. Hildyard, N (2008) *Witness Statement of Nicholas Hildyard* (on behalf of The Corner House, to The Information Tribunal) (unpublished)

40. Evans, Rob. 'Ambassador warned of Azerbaijan oil pipeline risk', The Guardian, 21 August 2006: http://www.guardian.co.uk/politics/2006/aug/21/uk.freedomofinformation

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The Corner House

Challenges

Repeated rejections of requests made and the length of time it takes to appeal decisions were the main challenges confronted by The Corner House: "It's the institutional constraints we're trying to get at, we don't make ad hominem criticisms."

The Corner House appealed on its own initiative, but noted with particular regard to an appeal post-ICO, "you can lose your way in the request, you can only get so far without having legal advice. There is a really strong case for legal advice being available as part of the process."

According to The Corner House, while there is information available from the ICO, "having a lawyer to frame it" is crucial because appeals often rely on a particular piece of case law.

Final thoughts

For The Corner House, **"Freedom of Information is definitely of worth despite the challenges."**

FOI enabled The Corner House to argue that ECGD is breaking its guidelines and to gain access to a lot of correspondence, "which was precedent to campaigns around the human rights impact of investor's decisions."

"There is a process of evolving case law, so the exemptions in themselves don't necessarily mean that you won't get the information. Do not be deterred to go on to the internal review and further. Persistence is really, really important, and framing the request, which, in time, you get better at doing."

Rachel Bernu,
Managing Director, Kurdish Human Rights Project (KHRP)

The KHRP believes that FOI legislation should be regarded as a gigantic step forward in the protection and promotion of human rights – not only in Britain but also globally. As has been learnt all to well, lax regulation – whether in finance and banking, or in the laws governing the conduct of corporations overseas – is far too common. Freedom of Information allows the British public to see not only what has happened, but also how to prevent future legal and human rights breaches from happening again.

In the Kurdish regions where we work, where resources such as natural gas, oil and water are aplenty and where British businesses operate in their extraction, FOI legislation works to protect the interests of the British public in furthering the advancement of human rights for all.

KHRP: http://www.khrp.org/

Baku Ceyhan Campaign: http://www.bakuceyhan.org.uk/

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CCAL

The **Campaign for Clean Air in London (CCAL)** aims "to achieve urgently and sustainably at least World Health Organisation recommended standards of air quality throughout London."

Website link: www.cleanairinlondon.org
Blog link: http://www.cleanairinlondon.org
Twitter link: http://twitter.com/CleanAirLondon

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Campaign for Clean Air in London

"It is incredibly valuable having the FOI/EIR powers. Using them has fundamentally changed what the campaign has been able to achieve."
Simon Birkett, Founder of CCAL

Quotes are taken from an interview with Simon Birkett.[41]

The initial reason Simon used FOI was frustration with a lack of progress through more traditional campaigning methods; he outlines two clear uses of FOI – "developing 'content' and supporting media interest."

"One of the biggest public health failings or 'cover-ups' by a government in modern History."
Simon Birkett

CCAL used EIR to request information from the Mayor of London's office, Defra and the Department of Health, which showed how the officially stated number of 1,031 premature deaths in London in 2005 due to 'dangerous airborne particles' (PM_{10}), was calculated.

When CCAL finally received a spreadsheet from Defra and help from the Department of Health, "it was clear the 1,031 number was based on short-term exposure to PM_{10} and the real number for 2005, based on long-term exposure alone, was likely to be between 3,500 and 8,000. I was able to publish those numbers."

The Mayor, in his draft Air Quality Strategy issued in March 2010, estimated that there are around 4,300 premature deaths per year in London partly caused by long-term exposure to fine particles, but then "rejected CCAL's FOI request for the health study underpinning this estimate to be published."[42]

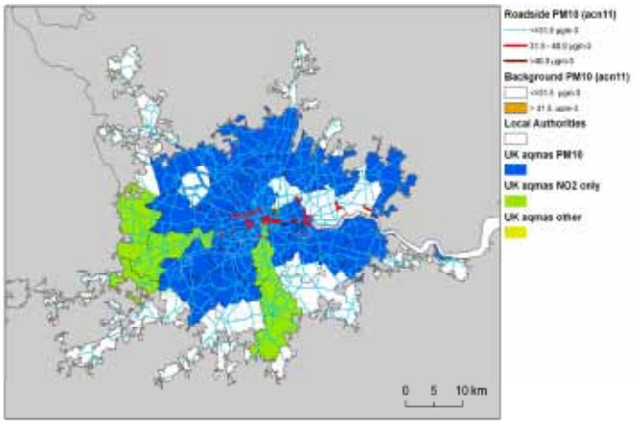
The Mayor received media criticism[43] for failing to publish the health study, as well as a statement by CCAL in its response[44] (dated 24 June 2010), to the Mayor's consultation on the proposed postponement of Phase 3 of the London Low Emission Zone (LEZ).

In their response, CCAL stated that they reserved the right to challenge the consultation if the health study and other information was not published in a timely manner. "The study was finally published at the end of June, and generated a lot of media interest."

Simon uses the template EIR letter in *Your Right to Know* by Heather Brooke,[45] he argues if you use less formal methods, "the authorities choose what they give you and you get less."

Another major use of FOI for CCAL was in obtaining maps of London from Defra in 2008 showing where they thought air quality laws for PM10 would be breached in London in 2011. The government had to reapply to the European Commission for a time extension for PM_{10} until 2011 having had their first application rejected.

Greater London Urban Area UK0001, 2011 base



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Campaign for Clean Air in London

CCAL obtained similar maps for NO_2 for 2010 and 2015 (the last possible date for compliance). "Whereas the PM_{10} map showed 40km of roads in London breaching these laws by 2011, for NO_2, the whole maps were covered in red lines."

"If the authority keeps stonewalling you, it can be very difficult to get through that."

In January 2009, CCAL requested briefing materials regarding a meeting between the then Air Quality Minister and London Mayor Boris Johnson, which was rejected by Defra "well beyond" the time limit.

After seeking advice from two pro bono barristers CCAL requested an internal review, which was completed belatedly in September 2009 when Defra again rejected CCAL's request in full.

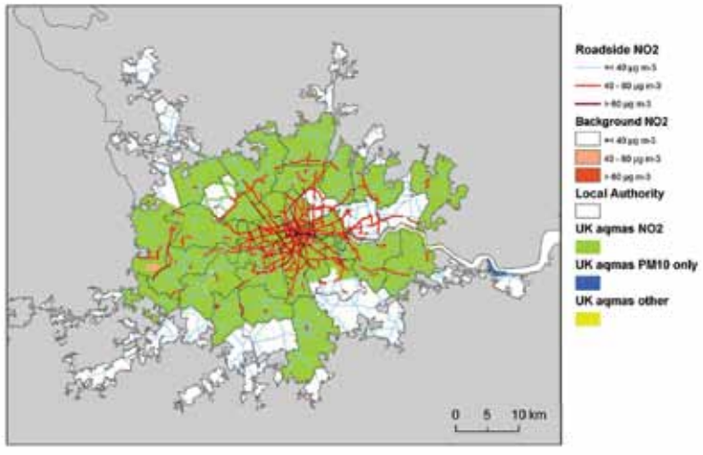
Simon appealed to the ICO "because of the urgency and significance of the health risk, breaches of air quality laws and the prospect of escalating infraction action from Europe", but also because the materials could provide an important policy insight.

Though the ICO can take up to three years to make decisions, CCAL's case was put through a triage system with the ICO ruling in less than a month in favour of full disclosure. Defra lodged an appeal to the First Tier of the Information Tribunal and "has since released about 90% of the information – but claimed 'litigation privilege' to withhold the last 10%." Though the Tribunal ruled Defra could not claim this privilege at the last minute, Defra have appealed to the Upper Tier of the Tribunal after Defra's barrister admitted the ruling otherwise meant "it does not have much of a case left."

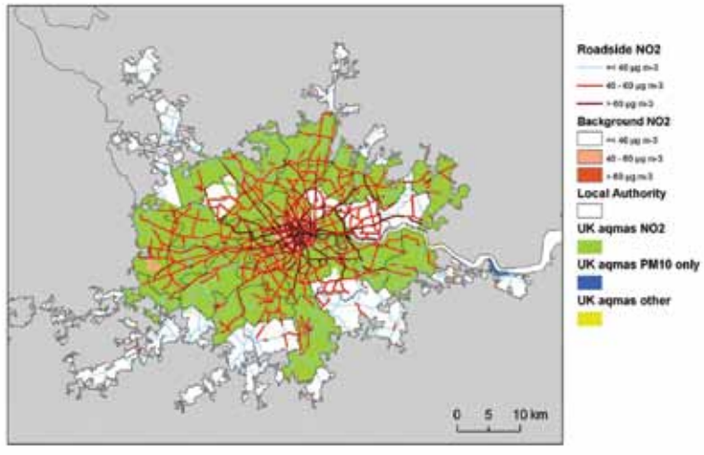
Challenges

The appeals system can be very drawn out; "it would be better if you could go to the ICO sooner and they would make quick decisions as they did for CCAL", but "it could be difficult to articulate the legal issues without pro bono legal help."

Greater London Urban Area UK0001, 2015 Base



Greater London Urban Area UK0001, 2010 Base



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Campaign for Clean Air in London

Final thoughts

CCAL finds it useful to publish FOI responses through an online blog, and now has **"over 1,000 followers on Twitter."**

Simon sends significant responses with a news release to the media and politicians, some of whom he has developed strong relationships with.

For CCAL "rather than poking around on the outside without enough information, the campaign has tried to find out about the real issues. **Almost every day now someone from the media calls up, asking for quotes or enquiring about something."**

Barristers Gerry Facenna and Laura Elizabeth John have helped CCAL over the last two years, representing the campaign at the Information Tribunal and providing legal advice...

CCAL's case "has become a test case on whether public authorities can raise new points, not least when a case is urgent." While the biggest problem in the FOI process can be the amount of time the ICO takes to reach decisions, the Tribunal, in their experience is relatively efficient and favourable towards requesters. FOI "definitely has a lot of benefits, CCAL won in front of the Commissioner and subsequently got almost all of the information it had asked for."

CCAL thinks it is important to have a lawyer present at a Tribunal and was pleased to be represented by Gerry, Laura and Friends of the Earth's Rights and Justice Team. Gerry and Laura say "the Tribunal's rules are fairly straight-forward", though "if you have a complicated case you may want to get some legal assistance."

The appeals process is not normally adversarial, but the Tribunal is inquisitorial and will do a lot of cross-examination. "There are normally no specific costs to bear and the Tribunal has its own internal target of having appeals done in 6 to 9 months."

"There is actually a lot to be gained in campaigning terms by challenging a public authority if it is stonewalling you, not least because the media can get very interested in a case", so it is worth contacting law firms as "you will always find people willing to work at a reduced rate or pro bono if it is for a good cause."

Gerry Facenna and Laura Elizabeth John are barristers at Monckton Chambers, which focuses on EU, human rights, commercial, VAT and customs law. They are open to enquiries from campaigners from the voluntary and community sector with regard to legal advice and representation.

Monckton Chambers, 1 & 2 Raymond Buildings, Grays Inn, London. WC1R 5NR. DX LDE 257.
Tel: +44 (0)20 7405 7211.
Fax: +44 (0)20 7405 2084

Website: http://www.monckton.com/
Email: chambers@monckton.com

41. Unless quotes are referenced otherwise.
42. The Greater London Authority (GLA) state that the health study was exempted on the grounds that the draft was "ongoing at the time of the request", that it was "technical in nature" and "required a lot of data handling and contextualisation." Furthermore, "The GLA always intended to publish the health study and the early results were included in the draft Mayor's Air Quality Strategy in March 2010." GLA also wish to draw attention to a response to a 'Mayor's Question' regarding the health study in February 2010: "I expect to publish in the Spring for consultation." http://mqt.london.gov.uk/mqt/public/question.do?id=30157. "The health study was published once the work was complete."
43. See Hill, D. 'Boris Johnson: where's his air pollution study?', *The Guardian Online*, 25 June 2010: http://www.guardian.co.uk/uk/davehillblog/2010/jun/24/boris-johnson-london-air-pollution-study
44. Birkett, S (CCAL) (2010) Response to Mayor Johnson, re: proposed deferral of LEZ, phase 3. Available at: http://www.cleanairinlondon.org/_attachments/4561839/CCAL%20097%20Letter%20to%20Mayor%20re%20LEZ3%20240610%20V2.pdf
45. Brooke, H. (2005) *Your Right to Know: A citizens guide to the Freedom of Information Act* (London, Pluto Press), pp. 292-293

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CAAT

Campaign Against Arms Trade (CAAT) works for the reduction and ultimate abolition of the international arms trade, together with progressive demilitarisation within arms-producing countries.

CAAT is a network of people based in the UK who recognise that the arms trade severely undermines human rights, security and economic development at global, regional, national and local levels.

www.caat.org.uk

The quotes are taken from an interview with Ian Prichard, Ann Feltham and Sarah Waldron of CAAT.

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FOI in action: The case studies

Campaign Against Arms Trade

CAAT started to use FOI as soon as the Act came into force, particularly with regard to requesting Memoranda of Understanding (MOUs) from the Ministry of Defence (MOD), information from the Export Credits Guarantee Department (ECGD) and files from the Foreign and Commonwealth Office (FCO), "to shed more light on arms deals to Saudi Arabia."

After requests and appeals were rejected by the government and the ICO, further appeals were made to the Information Tribunal, which were heard through two hearings. There were a number of different requests in a whole research framework, "The Saudi deal was the key deal – we really wanted to get stuff into the public domain."

CAAT's witnesses in one of the hearings included Vince Cable MP and a former diplomat, and CAAT was represented by barristers.

"It took 3 years, the big delay was lack of resources with the ICO, but they became quite significant cases and often get referred to in other cases."

CAAT found a definite need for legal help, particularly in cases when the ICO was not on their side. Though at the first Tribunal hearing CAAT researcher Nicholas Gilby represented himself,[46] he was able to gain advice from the CAAT legal team. He had also done a significant amount of research. "The government uses very senior lawyers so it would be very daunting to represent yourself." CAAT argued for a 'Special Advocate" to represent it in secret hearings, which was granted.

While the MOUs were not disclosed by the Tribunal, the FCO was ordered to disclose some of the information. CAAT described how it was unclear in the early days of the FOI Act what could be disclosed, so they appealed decisions through to the Information Tribunal: "we took foreign policy issues that far."

Following a second Tribunal hearing in which CAAT received information from the ECGD, "some of the documents are now proving very useful." The documents allowed CAAT to speak to parliamentarians, make a case about their broader arguments and clarify the law. The requests were also timely in the context of the Serious Fraud Office Investigation of BAE Systems, the company involved in the arms deals, resulting in widespread media attention.

46. CAAT brought an appeal against the ICO and the Ministry of Defence, while Nicholas Gilby brought a second appeal in an individual capacity against the ICO and the FCO.

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FOI in action: The case studies

Campaign Against Arms Trade

"Almost the greatest threat to this department is people knowing what it does." Ian Prichard.

CAAT has issued a steady stream of requests to the UK Trade & Investment Defence and Security Organisation (UKTI DSO) in order to build up a picture of its activities, as part of its campaign to close the unit down.

"This was a new department in 2008. We'd campaigned for the closure of its predecessor, so we wanted to campaign on it straightaway. Though we had asked a lot of parliamentary questions and looked at published material, there was no substantial information about its work available."

The information gained enabled CAAT to analyse it vis-à-vis human rights issues and FCO policies; **"concrete examples are important for effective campaign communications. In 2008 we had just two pages of information on the UKTI DSO, our latest report was 30 pages, which is being sent to our supporters to give to parliamentarians."**

One particular request was for the content of a speech given by the head of the UKTI DSO at an arms symposium, mentioning high level political interventions the government had made in support of arms sales: "we then asked when were those interventions, who was involved – so one piece of information you didn't necessarily expect to be useful may send you off in promising new directions."

CAAT has appealed some refusals but does not always follow them up, due to the limited resources of the organisation "it takes a long time. The internal review can be a long process – our record with UKTI DSO is 205 days." The only requests answered in 20 days were refusals and two easy responses with brief, uncontroversial information. "If you want an instant media splash it may not be something to rely on!"

CAAT is now getting very useful material. The government "won't be able to hold off in the long run" in terms of providing the information.

Challenges

Delays and unnecessary blanket refusals were major frustrations: "They give us the absolute minimum each time." On one request which related to arms sales to Libya (a 'hot news topic' at the time), the UKTI took 100 days to respond and only did so after CAAT asked the Information Commissioner to intervene.

"You have to assume that you might have to help the department in how to respond." Though there are "some signs of improvement" with departments acknowledging they have exceeded the time limit and providing information earlier, CAAT are still finding information being exempted for no reason, particularly names of senior public officials and even politicians.

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Final thoughts

CAAT have been able to gain a lot of information through using FOI and channel it into their policy, campaigns and research work. With regard to the above examples, CAAT made it clear that **they would not have gained much of this information without FOI and "would not have anything to go on."**

"You can ask for documents with information redacted, if they've refused the whole thing." CAAT also explained how perhaps the best way to overcome delays is to make a public issue of the delay, combined with complaining to the ICO.

FOI is "one of a range of tools, with parliamentary questions and research as well", choosing which to use is a "judgement call" based on past experience, need and the specificities of the tool. CAAT keep persisting because "Huge amounts of public money is being used for something which a lot of people would object to. It's worth getting the information out, and it is newsworthy." In the experience of CAAT, campaign results depend on gaining a 'critical mass' of information.

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There are a range of issues that emerge out of the case studies and the survey, not least the different uses FOI has been put to (for a summary of the following conclusions please refer to the 'Conclusions on a page' section above) – **FOI is a powerful, versatile and complementary campaigning tool**. Both Bliss and TreeHouse used FOI to survey NHS neonatal units and local authorities respectively in order to inform campaigning activities, while The Corner House, Campaign for Clean Air in London and Campaign Against Arms Trade have, arguably, used FOI as a campaigning activity in itself.

Perhaps the most common feature to all the case studies is how the campaigners have navigated the use of FOI largely on their own initiative yet there is a definite need for support. This is confirmed by the survey findings. While by far the majority of organisations perceived FOI to be a powerful campaigning tool, and just over a third believed that FOI has the potential to be more powerful still, there was a definite need found for further support. The experiences of the case study organisations and the survey respondents have enabled us to shed some light on the use of FOI as a campaigning tool and its potential for the future.

It is quite clear how powerful a tool Freedom of Information is in campaigning, the benefits of which outweigh the challenges. For CCAL it has "fundamentally changed what the campaign has been able to achieve", while for The Corner House, "Freedom of Information is definitely worthwhile despite the challenges."

For Andrew Cole, Chief Executive of Bliss "FOI requests are a very powerful tool, but they need to be used in the right way." This is supported by the survey findings in that most organisations perceived the benefits to outweigh the challenges regardless of other factors. Scottish Information Commissioner Kevin Dunion writes below that FOI can "even tip the balance between the success or failure of a campaign."

Why use FOI?

Frustration with a lack of progress in campaigning through other means. CCAL, for example, began attempting to find information and secure changes through dialogue and lobbying, while Bliss commissioned an academic organisation to gather information, both experiencing significant problems. FOI can be extremely effective to "go behind the political rhetoric to see the true state of affairs"[47], as Heather Brooke has argued, and can do so through something as simple as writing a letter.

47. Brooke, H. (2005) *Your Right to Know: A citizens guide to the Freedom of Information Act* (London, Pluto Press), p. 4

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FOI can be used to build a body of research, as well as a way to engage the media in your campaign. For Bliss and TreeHouse, the information gained enabled them to produce well-informed reports, to feed into policy and campaigns work as well as to gain media coverage; Bliss' 'One to one' nursing campaign, and the Autism Bill, respectively. In the midst of an uncertain political and/or economic environment, FOI can be a very cost-effective method to campaign.

CAAT used FOI to build up a picture of the UKTI DSO. While they experienced blanket refusals & delays, they were able to analyse the information and produce a substantial report to send to their supporters and parliamentarians. Similarly, CCAL used EIR to access "raw data" regarding air quality in London vis-à-vis estimated numbers of premature deaths, developing 'content' and significant media interest.

This sentiment is echoed in some of the following experiences of FOI, for example by the National Housing Federation.

The survey found research to be the most common use of FOI, closely followed by media – and a rise predicted in both.

Engaging supporters through using new social media, publications or other methods. FOI information is often of interest in itself and can be ideal to build support and engagement. CCAL for example has "over 1,000 followers on Twitter", while CAAT, Bliss and TreeHouse all used FOI-based materials to engage supporters to campaign through lobbying, public campaigning and to attract media attention.

A powerful advocacy tool to gain information about policy issues and how decisions are arrived at. In gaining information about a complaint made by themselves and FOE, The Corner House received "a massive amount of information", which fed into policy work and media interest. Similarly, CCAL have received a lot of information regarding a ministerial meeting between London Mayor Boris Johnson and the Air Quality Minister.

FOI is one of a range of tools in the campaigning toolkit. When compared to other campaigning methods such as Parliamentary Questions (PQs), FOI can be very powerful if you wish to access information in written or electronic form, yet PQs can be a very efficient way of getting an issue into the policy arena and the media spotlight. What is clear from the case studies, such as CAAT's, is how both can inform each other, along with other forms of research, influencing and campaigning. Choosing whether to use FOI, PQs or other tools is a "judgement call" based on prior knowledge, need and the specificities of the tool – PQs for example do depend upon access to an MP or Peer as well as Parliament being in session.

"Peers asking questions in the House of Lords find themselves in a worse position than members of the public using the Freedom of Information Act...[enduring]...endless obfuscation and refusals."[48] Lord Lucas.

The survey finding – that most organisations use and intend to use FOI for research, lobbying central government and media interest – suggests that FOI is a flexible and complementary campaigning tool.

Challenges to FOI

The quality and quantity of information received is often insufficient and response rates vary. The Corner House gained a lot of information within the 20 day working limit in one case yet with another case received information only after a lengthy appeals process. The survey found a significant degree of uncertainty with regard to the sufficiency of information gained from FOI requests, suggesting a lack of clarity concerning how information can be channeled into campaigning.

48. Lord Lucas, 'Parliamentary questions lag behind freedom of information', *epolitix.com*, January 2010: http://www.epolitix.com/latestnews/article-detail/newsarticle/parliamentary-questions-lag-behind-freedom-of-information/. Lord Lucas submitted an FOI Private Members Bill in 1999.

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It is worth assuming that, as CAAT found, as requesters you may need to alert the authority to their legal duty to respond and in what ways they may do so – for example by releasing information with redactions.

Another important point is that the EIR does contain stronger rights to information, as found by CCAL and alluded to by Laura Gyte on behalf of Friends of the Earth.

It may be necessary yet resource intensive to follow-up requests to gain information. While TreeHouse "didn't follow up the ones who didn't respond", CAAT were forced to choose which requests to follow-up - both due to lack of resources in the form of available staff time.

While FOI is a 'right to know', if in doubt, seek consent if you wish to publish copyright information, as found by TreeHouse.[49] Available advice however states that permission is only necessary if you wish to use less than a 'substantial part' of a copyright protected work.

Though information gained under the FOIA does not negate intellectual property rights that may apply (e.g. Crown Copyright), a public authority should not normally withhold consent if requested. The 'fair dealing' provisions or 'exceptions' of the Copyright Designs and Patent Act 1988 state that for research, non-commercial purposes, criticism, review and news reporting, extracts of copyright material can be reproduced, so long as the source is acknowledged appropriately.[50]

It is important to frame a request appropriately, and ask for specific recorded information, referencing specific time periods if possible, which can be done through developing a series of requests, as CAAT found, alongside other research. With some requests such as survey-based ones, it may be prudent to develop the questions in discussion with the authorities the request is aimed at, in order to gain the most effective information. A need to "maintain dialogue" was noted by TreeHouse and was a feature of all the case studies.

49. The test of whether information can be disclosed to the requester under the FOIA or EIR includes whether disclosure to the public (meaning 'anyone') would breach any legal, statutory or court restrictions.

This theme is elaborated upon in many of the following comments, for example by Maurice Frankel on behalf of the Campaign for Freedom of Information. The sample FOI request and response also illustrates well how to frame a request.

While the gains for transparency and information outweigh the evidence for any negative effect on working relationships or funding, it may be worth considering other tools if the information can be gained in another way, as Bliss found out – yet it is also worth noting that requests for information that do not reference 'Freedom of Information' will still be considered under the FOIA or EIR. FOI should be seen as a constructive process and the benefits are acknowledged by public authorities such as the Greater London Authority (GLA) and Ealing Borough Council.

While the survey found a definite perception of 'marginal risk' to making FOI requests, more people considered there to be 'no risk' with regard to all campaigning activities FOI can inform together with an organisations' mission, working relationships or funding.

By far the majority of the survey respondents believed FOI has the potential to drive transparency and change in the behaviour of all public bodies, which supports the notion that FOI is a constructive process.

Appeals

Persistence and determination are crucial to any successful appeal. There is a process of evolving case law and a degree of uncertainty regarding what information can be released, yet the campaign gains can be enormous. The Corner House, CAAT and CCAL have all gained significant amounts of information and at the same time clarified the law – establishing cases which are referred to by The Tribunal and, though not binding case law, affect the interpretation of the FOIA and EIR. That the survey found that familiarity drives an appetite to appeal greatly supports this notion.

50. A 'Substantial part' is not defined in copyright law, but has been interpreted by the courts to mean "a qualitatively significant part of a work even where this is not a large part of the work". Further information including which types of information are subject to copyright is available from the Intellectual Property Office: www.ipo.gov.uk/types/copy/c-other/c-exception.htm, and the Copyright Licensing Agency (CLA): http://www.cla.co.uk/.

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Making appeals can be time-consuming, as found by CCAL and CAAT, particularly in the length of time it takes the ICO to reach decisions, whereas the Tribunal can be "relatively efficient." It is worth complaining to and appealing to the ICO as they can intervene to hasten internal reviews and, as Deputy Information Commissioner Graham Smith makes clear, according to their own data, they are becoming more efficient at resolving cases.[51] There is also "a lot to be gained in campaigning terms by lodging an appeal if a public authority is stonewalling you", as the lawyers acting for CCAL noted.

Legal assistance is often crucial for appeals to the Information Tribunal, especially if the appeal is complicated. It is significant that The Corner House, CCAL and CAAT all relied upon pro bono legal support, as did TreeHouse on a separate issue to appealing. For CAAT's campaign to unveil details of arms deals to Saudi Arabia, legal assistance was crucial, especially as the Information Commissioner was not on their side.

There does seem to be a strong case for legal support to be offered to requesters and for a reformed ICO – increasing its powers, resources and ability to advocate on behalf of requesters. With regard to the Tribunal, it is worth noting that there are lawyers "willing to work at a reduced rate or pro bono if it is for a good cause."

Significantly, the survey found that over half of the respondents would pursue litigation, half of whom would do so to establish a right of access.

Final thoughts

Developing a campaign strategy, as suggested by Campaigning Effectiveness, NCVO, encapsulated in the Good Campaigns Guide, is crucial to making FOI requests.[52] It is important to consider what you wish to achieve vis-à-vis the experiences, challenges and benefits outlined above and described within the case studies. FOI can also be very useful in developing campaign strategies; accessing key information for mapping exercises and to feed into PEST and SWOT analyses.

It is important to see FOI requests as useful for a variety of purposes at a local as much as a national level – for gaining statistics to inform campaigning activities as RNID found, as much as for making headway with the media or impacting the policy process – for example by CRAE. FOI can however be a very cost-effective way to achieve big outputs with relatively little inputs, as evidenced for example by The Corner House, at the cost of writing a letter.

Research on the effectiveness of FOI in campaigning is in its infancy, this guide demonstrates a need for ongoing impact assessments and learning opportunities. While the amount of research is increasing, "There is little empirical research on FOI in general (Egan 2003), and no systematic analysis of the benefits and disbenefits of FOI legislation, anywhere in the world (OECD 2005)."[53] We hope this guide serves to encourage such research – as the conclusions we have found, while guidance, should also be interpreted as questions for campaigners as well as for researchers.

While FOI has been used significantly by voluntary organisations in campaigning, there is a potential for higher uptake. While *Called to Account* found that just under a third of organisations surveyed had used FOI to inform campaigning activities, and that "requests relating to campaigning activity are set to grow significantly", the survey for this guide found a belief that FOI has the potential to be very powerful in campaigning alongside a much higher usage of FOI intended for the future.

It is useful setting this beside findings from UCL's research on the impact of FOI, that although it has increased accountability and transparency, **"Government holds all the cards... It holds the information, and can resist disclosure for years if it wants to, and exercise a veto.."**[54]

51. By an increase of 39% comparing 2009/10 to 2008/9, ICO (2010) *Information Commissioner's Annual Report: 2009/10: Upholding information rights in a changing environment* (London, The Stationary Office), p. 27: http://www.ico.gov.uk/upload/documents/library/corporate/detailed_specialist_guides/annual_report_2010.pdf
52. Kingham, T., and Coe, J., (2007) *the good Campaigns guide: Campaigning for Impact* (London, NCVO)
53. Cited in Hazel et, al (UCL) Local government research *case for support,* p.1 – http://www.ucl.ac.uk/constitution-unit/research/foi/foi-and-local-government/case-for-support

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In this context campaigning has a vital role to play in exploring the potential of the Act to open up the law and government.

One of the key themes which has arisen from this guide, is how voluntary organisations are at the cutting-edge of using FOI in campaigning. Some commentators have observed how, though the benefits of FOI are ultimately felt by all, "battle lines between citizen and the state are becoming entrenched", [55] in clear contrast to Lord Falconer's remarks at the beginning of this guide. While there is adversary in using FOI, there is also constructive dialogue and definite gains for campaigners, public authorities and wider democracy.[56]

Voluntary organisations can, as this guide has shown, be particularly successful in using FOI innovatively to interpret the space between the citizen and the state; opening up government and making decision-making more effective while achieving significant campaign gains.

Using FOI in campaigning: challenges and benefits summary table

Challenges	Benefits
Insufficient quantity and quality of information	Gain a significant amount of good quality 'raw' data & shed new light on policy processes
Possible time delays in responses	Research to build understanding and inform other activities
Possible negative backlash	Feeds into policy work and can support policy changes
Right to publish copyright information sometimes unclear	Media interest
Can be resource-intensive to follow-up or appeal	Cost-effective and can have a short timescale
Need for legal support in appeals, particularly to the Information Tribunal	Building transparency and accountability
Persistence and determination	Right to appeal through a formal process
Making sure your request is framed appropriately and specifically to elicit required information	Versatile and flexible campaigning tool
	Complementary to other campaigning methods
	Transformative effect on a campaign – it can tip the balance between success or failure

54. Hazell et al. (2009) *Impact of FOI on central government,* P. 7
55. Heather Brooke in *Your Right to Know,* p. 4
56. This point is made by Heather Brooke among other commentators as well as in the findings of UCL's research – see *Your Right to Know,* p. 5 and Hazell et al, *Impact of FOI on central government:* https://www.ucl.ac.uk/constitution-unit/research/foi/ESRC-end-of-award-report

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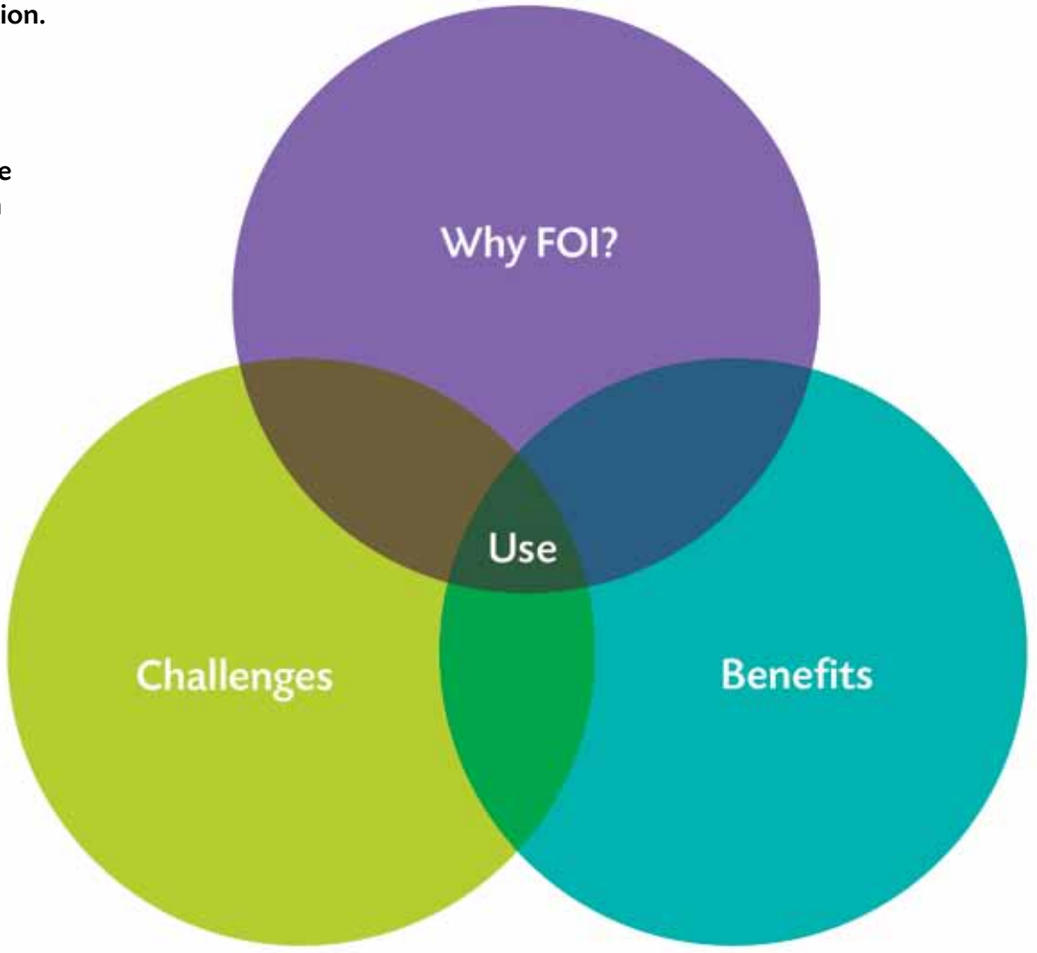
Points to consider

- **Is the information already available? Can you access it by other means?**
- **In what stage of a campaign will you use FOI? Planning, research, advocacy – to the media, parliamentarians or the public? It can be useful for all.**
- **What is the purpose of your request and what will the use be?**
- **Can your use of FOI complement other campaigning tools?**
- **Be specific in framing requests – ask for particular existing information within specific timeframes if possible.**
- **It may be necessary to seek consent to publish substantial parts of copyright information, consider factoring this into an initial request.**
- **It may be necessary to follow-up requests if you receive insufficient information, which can be resource-intensive.**
- **Consider appealing a decision if you don't receive sufficient information. Be persistent and determined.**
- **If you appeal to the Information Tribunal you may need to consider securing legal assistance – particularly if the ICO is not on your side.**
- **Do use the available guidance signposted in this guide.**

Campaign planning diagram – question why you wish to use FOI including what other methods are available, detail challenges and benefits then arrive at a particular use...



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Experiences of FOI: Comments

Katy Swaine, Legal Director, Children's Rights Alliance for England (CRAE)

FOI provides a powerful tool for campaigning organisations to find out information in the public interest, increase transparency and hold institutions to account. The process for challenging FOI refusals is extremely slow, apparently due to the backlog of cases received by the Information Commissioner's Office, and this must be improved. However, in our experience it has been worth persevering in order to achieve a positive result.

Our recent success in FOI proceedings against the Youth Justice Board has enabled us to draw public attention to an important issue affecting the rights of children in custody, and to gain crucial information which will form part of the basis for future legal proceedings to achieve justice and transparency for children.

Andy Glyde, Senior Campaigner, Royal National Institute for the Deaf (RNID)

FOI was a very useful tool for our work and we would use it again if we needed to. As part of our Read My Lips campaign to ensure lipreading classes are widely available at little to no cost to the learner, we tried to map out where the classes were in England and Wales to identify some of the problem areas. We sent out over forty FOI requests to local authorities.

It was really simple to send off the requests. Some came back quicker than others but we got some really valuable information as a result. Even in cases where the local authority did not run any classes, we were often signposted to organisations that might, in line with the requirements of the Act.

In sending off quite a few requests at once, we did get a bit bogged down with acknowledgement replies and tracking who had responded.

A few local authorities did not understand what we were looking for; we tried to make it clear what questions we were asking but lipreading is not always well understood, though the information officers at the local authorities were quite happy to help.

Richard Taylor and Alex Skene, WhatDoTheyKnow.com

WhatDoTheyKnow.com lists over three thousand local and national public bodies and aims to make the process of requesting information easy. According to the Ministry of Justice 6,857 requests were made to "Departments of State" between January and March 2010, of which 707 were made via WhatDoTheyKnow – a 10% share. The request, correspondence and response are automatically published online.

All we advise is that people concisely and precisely describe the information they are seeking. Short, succinct messages make it easier for authorities to be clear what information is being requested, and will hopefully result in a quicker reply.

We hope that over time more information will be proactively published by public bodies and people will have to request less and less. As well as helping to ensure a proper balance between the individual and the state, Freedom of Information helps hold those in power to account and has the potential to give us better value for public money.

William Summers, Campaigns Officer, National Housing Federation

FOI is a really effective way of getting hold of unpublished information, as long as your request is specific and to the point. Requests need to be framed wide enough to capture all of the information you want, but not so open that you end up with piles of fruitless documents to wade through.

If you are after information from a number of authorities, don't be afraid to test out your request on two or three of them first to see how they respond, then hone your request if necessary for the others.

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In 2009 the National Housing Federation highlighted the rising number of schools closing in rural areas and the knock on effect this has on village life. The bulk of the story was based on a single FOI request to the Department for Children, Schools and Families, which returned a detailed breakdown of rural school closures since 2000. Not only did this provide us with a useful data set about rural services, it also gave the Federation headlines in several newspapers.

Laura Gyte, Lawyer, Friends of the Earth

Our rights to information under FOI are easy to use, but extremely effective. Many of the voluntary organisations and community groups we work with want to access information to understand how a public authority is approaching a particular decision, and why it might hold particular views. The information is essential for full participation in that decision. We've found that some authorities are committed to transparency. But where an authority is reluctant, a carefully formulated request can, in the end, result in the release of valuable information.

Also useful are the stronger rights to information contained in the Environmental Information Regulations. The definition of environmental information is broad so they're worth considering for information about health, local places, energy, land and more.

Maurice Frankel, Director, Campaign for Freedom of Information

FOI is a critical tool for campaigning organisations. It can help document the extent of a problem and uncover what the authority has been, or should be doing about it. For example, by seeking straightforward information about the frequency of events, asking for reviews of progress, or for guidance used by officials dealing with it. It can also be used to obtain lobbying, correspondence or other documents from outside bodies including other authorities who may be involved in the issue, and it may reveal the internal discussion of options within the authority.

The key can be understanding what information about the issue the authority holds. Look out for this when doing your research or speaking to officials. The FOI Act and the EIRs both require authorities to provide reasonable advice and assistance to requesters, an important provision which you may need to remind them about. The more you understand how the authority goes about its work, the better placed you will be. Requests for information which someone wrongly assumes the authority holds can be a major source of frustration and delay.

There is no need for an FOI request to be confrontational. If you already have good relations with the authority, discuss your request with your contact, explain why you're making it and let them know that you would be happy to target your request at the specific key information, rather than demanding an enormous amount of material you probably don't want anyway. Often it's the work of dealing with an excessively broad request, rather than resistance to disclosure, that concerns officials.

Points from the public sector

Kevin Dunion, Scottish Information Commissioner

The experience from Scotland is that FOI can be a valuable campaign tool for the sector, but that voluntary organisations are not using it to its full potential. This is something that my organisation is exploring further, in partnership with researchers from the University of Strathclyde.

Nevertheless, Scotland has seen a number of real success stories, with FOI being used by voluntary organisations to raise the profile of campaigns, develop new working relations with authorities, and even to win changes to the law. These include community groups fighting to keep open rural schools, a group of patients and relatives concerned about hospital acquired infections and a national organisation representing the interest of those with disabilities.

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They have shown that, used effectively, FOI can be an extremely powerful resource, and, in some cases, can even tip the balance between the success or failure of a campaign.

Graham Smith, Deputy Commissioner at the Information Commissioner's Office (ICO)

Information rights have never been so important. Over the past year the ICO has been involved in a number of decisions resulting in the disclosure of information previously withheld – from the NHS consultants contract to MoT pass and failure rates by make of car.

The Freedom of Information Act (FOIA) is certainly enjoying a higher profile since coming into force five years ago and our case load continues to grow each year. More and more authorities are proactively disclosing information and we are taking a tougher approach to those who repeatedly neglect their responsibilities under the Act.

Better work flow management and prioritisation have helped us to ensure we are dealing with the increasing number of complaints efficiently. In doing so we have managed to substantially reduce the backlog of outstanding Decision Notices allowing us to focus on newer cases.

However, the challenge to achieve greater transparency across the public sector remains and we stand ready to work with authorities to help them meet this challenge.

Albert Chan, Information and Governance Manager, Greater London Authority (GLA)

The GLA believes that the benefits of FOI in promoting openness and increasing public participation in matters that affect the lives of Londoners, far outweigh the challenges they can sometimes present to us as an authority in terms of stretching resources.

Meeting our obligations under the FOI Act plays a key role in the GLA's commitment to open government. It is with this in mind that the Mayor lowered the threshold at which GLA spending must be publicly reported from £1,000 to £500 in summer 2010. This means the public can now access information about a much larger proportion of our public expenditure directly from the GLA's website. The GLA also continues to work with its functional bodies to publish all of their useful data on London's Datastore,[57] building a comprehensive repository of data relating to London and the services delivered by its public sector organisations.

For all voluntary organisations wishing to request information from the GLA, we would simply suggest they make their requests as clear and specific as possible so we can locate, retrieve and extract the relevant information in a timely manner.

It would also be useful to provide a contact telephone number so, if necessary, we can quickly clarify any uncertainties, let you know the type of information we hold and help provide the information that you really want.

Ealing Borough Council

FOI encourages transparency and is as relevant to the voluntary sector as to the public sector. With the number of requests high and increasing, however, the cost to administer and respond is significant and growing.

Mr Alan Fenton, an NHS Consultant, has dealt with several FOI requests.

There should be no room for 'interpretation' of questions between the individuals providing the data and that the questions themselves provide useful answers. The best way to achieve this is for the organisations collecting data to develop questions with the people who will be providing the information.

57. London Datastore: See http://data.london.gov.uk/

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List of exemptions

While it is important to have an understanding of the exemptions, do not be deterred in making requests – the public authority has to prove firstly that the exemption applies and, secondly, in most cases that the the public interest in withholding information under the exemption is greater than the public interest in disclosure.

Do contact us for support and advice.

FOIA Exemptions – please click this link for detailed specialist guidance by the ICO on each particular exemption

Absolute exemptions (no public interest test)

Section 21 – Information reasonably accessible to the applicant by other means (AG6)

Section 23 – Information supplied by or relating to security bodies – new

Section 32 – Information contained in court records (AG9)

Section 34 – Parliamentary privilege – under review

Section 40 – Personal Information (AG1) – recently updated 11/11/08

Section 41 – Information provided in confidence (AG2)

Section 44 – Prohibitions on disclosure (AG27)

Qualified exemptions (public interest test)

Section 22 – Information intended for future publication (AG7)

Section 24 – The national security exemption – new

Section 26 – Defence (AG10)

Section 27 – International relations (AG14)

Section 28 – Relations within the UK (AG13)

Section 29 – Economy (AG15)

Section 30 – Investigations (AG16) – recently updated 03/08/09

Section 31 – Law enforcement (AG17) – recently updated 03/08/09

Section 33 – Public audit (AG18)

Section 35 – Policy formulation, Ministerial communications, Law Officers' advice and the operation of Ministerial Private Office (AG24)

Section 36 – Effective conduct of public affairs (AG25)

Section 36 – What should be recorded? – new

Section 37 – Communications with Her Majesty and the awarding of honours (AG26)

Section 38 – Health and safety (AG19)

Section 39 – Environmental information (EIR guidance pages)

Section 40 – Update note: Applying the exemption for third party personal data: the Tribunal's approach in House of Commons v IC & Leapman, Brooke and Thomas

Section 41 – The duty of confidence and the public interest

Section 41 – Information provided in confidence relating to contracts

Section 42 – Legal professional privilege (AG4)

Section 43 – Commercial interest (AG5)

Section 43 – Public sector contracts – FOI annexe

Section 43 – Commercial detriment of third parties

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EIR exceptions (all have a public interest test) please follow this link to see ICO guidance

Regulation 12(3): personal information:

Regulation 12(4): exceptions based on the type of information

- Regulation 12(4)(a): The public authority does not hold the information when an applicant's request is received
- Regulation 12(4)(b): The request for information is manifestly unreasonable;
- Regulation 12(4)(c): The request is too general
- Regulation 12(4)(d): The request relates to information which is unfinished or in the course of being completed
- Regulation 12(4)(e): The request involves the disclosure of internal communications

Regulation 12(5): exceptions based on the content of the information requested:

- Regulation 12(5)(a): International relations, defence, national security & public safety
- Regulation 12(5)(b): The course of justice, the ability of a person to obtain a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature
- Regulation 12(5)(c): Intellectual property rights
- Regulation 12(5)(d): The confidentiality of the proceedings of a public authority where such confidentiality is provided by law
- Regulation 12(5)(e): The confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest
- Regulation (12)(5)(f): The interests of the supplier of the information
- Regulation 12(5)(g): Protection of the Environment

Regulation 12(6) and (7): Neither confirm nor deny

Regulation 12(9) Above exceptions '12(5)(d)', '12(5)(e)', '12(5)(f)' and '12(5)(g)' cannot be used with regard to information on emissions

Regulation 12(10): ensures that cross-border issues will not affect the practical application of the regulations

Regulation 12(11): Public authorities may only withhold information which, after having applied the public interest test, falls within an exception and, is not in the public interest to release.

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NCVO *Freedom of Information: A guide for voluntary and community organisations:* http://www.ncvo-vol.org.uk/policy-research-analysis/policy/charity-law-regulation/guide-freedom-information-act

Do contact us for support and advice

Forum for Change
A network for people influencing policy and campaigning for change: http://www.forumforchange.org.uk/

Campaign for Freedom of Information (CFOI) has been campaigning for access to information since 1984. CFOI has produced a Users Guide to the FOIA and the EIR, and provides useful training events: http://www.cfoi.org.uk

Friends of the Earth (FOE) has actively campaigned for the right to know and has used the FOIA and the EIR to inform their campaigning; the FOE Rights and Justice Centre is a key resource for campaigners and runs a free legal advice line for individuals and community groups alternate Wednesdays, 6:30-8:30pm. Freephone: 0808 801 0405

FOE have produced an FOI Right to Know Handbook & other resources: http://www.foe.co.uk/community/tools/right_to_know/index.html

UK Freedom of Information Blog (run by CFOI): http://foia.blogspot.com

WhatDoTheyKnow:
http://www.whatdotheyknow.com – Make an FOI request online and search the archive, tips and advice

How to add a one click FOI request to your website: http://www.whatdotheyknow.com/help/api

Information Commissioner's Office:
http://www.ico.gov.uk
Wycliffe House
Water Lane, Wilmslow
Cheshire, SK9 5AF
View Google Map
Tel: 0303 123 1113
Fax: 01625 524510

First Tier Tribunal (Information Rights):
http://www.informationtribunal.gov.uk
General Regulatory Chamber
Arnhem House Support Centre
PO BOX 9300, Leicester
Leicestershire, LE1 8DJ
Phone 0845 600 0877
Fax 0116 249 4253

Ministry of Justice: Guidance and information: http://www.justice.gov.uk/about/freedom-of-information.htm
102 Petty France
London, SW1H 9AJ
United Kingdom
DX 152380 Westminster 8
Tel: 020 3334 3555
Fax: 020 3334 4455

Online

BBC Freedom of Information Act website: http://www.bbc.co.uk/foi

BBC Open Secrets blog:
http://www.bbc.co.uk/blogs/opensecrets

Journalist David Higgerson's FOI blog: **FOI Friday: 10 things we've learnt this week thanks to the Freedom of Information Act**
http://davidhiggerson.wordpress.com/category/freedom-of-information

Ministry of Defence disclosure log (selected replies by the MOD to FOI requests): http://www.mod.uk/DefenceInternet/FreedomOfInformation/DisclosureLog/

The Guardian newspaper,
Freedom of Information webpages: http://www.guardian.co.uk/politics/freedomofinformation

Openly Local – access to Local Government information:
http://openlylocal.com/
Twitter: http://twitter.com/openlylocal

One click FOI requests
for Local Government spending data (payments over £10,000): Navigate through to a local authority supplier and select a transaction. For an example click here

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Further resources

Copyright Licensing Agency (CLA)
http://www.cla.co.uk
The Copyright Licensing Agency Limited
Saffron House, 6-10 Kirby Street,
London, EC1N 8TS
Telephone: 020 7400 3100
Fax: 020 7400 3101
Email: cla@cla.co.uk

Intellectual Property Office
http://www.ipo.gov.uk
Concept House, Cardiff Road, Newport,
South Wales, NP10 8QQ
Tel: 0300 0200 015;
Fax: +44 (0)1633 817777;
Email: information@ipo.gov.uk

Copyright, Designs and Patent Act 1988
http://www.legislation.gov.uk/ukpga/1988/48/contents

Scottish Information Commissioner
(useful if you're conducting a UK-wide survey, for example or for general information)
Kinburn Castle, Doubledykes Road
St Andrews, Fife, KY16 9DS
Telephone: 01334 464610
Fax: 01334 464611
e-mail: enquiries@itspublicknowledge.info
Website:
http://www.itspublicknowledge.info

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Publications

Brooke, H. (2005) *Your Right to Know: A citizens guide to the Freedom of Information Act* (London, Pluto Press)

Carey, P. and Turle, M. (2008) *Freedom of Information Handbook* (London, The Law Society)

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Clark, J., Kane, D., Wilding, K., Wilton, J. NCVO (2010) *The UK Civil Society Almanac 2010* (London, NCVO)

Clements, K and Daly, S (TreeHouse) (2009) *Snapshot of children's autism services in the UK* (London, TreeHouse) See http://www.treehouse.org.uk/files/treehouse-corp/files/documents/TreeHouse_Snapshot_report_November_2009.pdf

Coppel, Philip (2010) *Information Rights: Law and Practice*, third edition (Oxford, Hart Publishing)

HM Government (2010) *The Coalition: our programme for government* (London, HM Government): http://www.cabinetoffice.gov.uk/media/409088/pfg_coalition.pdf

ICO (2010) *Information Commissioner's Annual Report: 2009/10: Upholding information rights in a changing environment* (London, The Stationary Office): http://www.ico.gov.uk/upload/documents/library/corporate/detailed_specialist_guides/annual_report_2010.pdf

Kingham, T., and Coe, J. (2007) *the good Campaigns guide: Campaigning for Impact* (London, NCVO)

Matthew J, Robison, R., CFOI, *1000 FOI Stories from 2006 and 2007.* See http://www.cfoi.org.uk/pdf/FOIStories2006-07.pdf

Ministry of Justice, Freedom of Information Act 2000: 2009 Annual Statistics on implementation in central government, *Ministry of Justice Statistics Bulletin*, 29 April 2010. See http://www.justice.gov.uk/publications/docs/foi-statistics-report-2009.pdf

Phillipson, B and Clark, P (Bliss) (2008) *Baby steps to better care* (London, Bliss) http://www.bliss.org.uk/core/core_picker/download.asp?id=642

Thomas, R. (ICO) (2007) *Open government is good government*, speech at Northumbria University. pp. 1-2: http://www.ico.gov.uk/upload/documents/library/freedom_of_information/research_and_reports/northumbria_text.pdf

Wadham, J. et al (2007) *Blackstone's Guide to the Freedom of Information Act 2000* (Oxford, Oxford University Press)

Letters and correspondence

Birkett, S (CCAL) (2010) Response to Mayor Johnson, re: proposed deferral of LEZ, phase 3. Available at: http://www.cleanairinlondon.org/_attachments/4561839/CCAL%20097%20Letter%20to%20Mayor%20re%20LEZ3%20240610%20V2.pdf

Unpublished

Hildyard, N (2008) *Witness Statement of Nicholas Hildyard* (on behalf of The Corner House, to The Information Tribunal) (unpublished)

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News articles

Evans, Rob. 'Ambassador warned of Azerbaijan oil pipeline risk', The Guardian, 21 August 2006: http://www.guardian.co.uk/politics/2006/aug/21/uk.freedomofinformation

Hill, D. 'Boris Johnson: where's his air pollution study?', *The Guardian Online*, 25 June 2010: http://www.guardian.co.uk/uk/davehillblog/2010/jun/24/boris-johnson-london-air-pollution-study

Lord Falconer, quoted in *BBC News* (2005) 'Right to information becomes law': http://news.bbc.co.uk/1/hi/uk_politics/4139087.stm

Lord Lucas, 'Parliamentary questions lag behind freedom of information', epolitix.com, January 2010: http://www.epolitix.com/latestnews/article-detail/newsarticle/parliamentary-questions-lag-behind-freedom-of-information

FOI research

NCVO and Ashridge Centre for Business and Society (2005) *Called to Account: The Impact of the Freedom of Information Act (London, NCVO)*

The Constitution Unit, University College London (Professor Robert Hazel and Dr. Ben Worthy) specialises in FOI research. Details of publications, projects, events and training are available at: http://www.ucl.ac.uk/constitution-unit/research/foi

Amos, J., Worthy, B., Bourke, G. The Constitution Unit (2008) *Freedom of Information Act 2000: The Third Year. The experience of local authorities in England in 2007* (London, The Constitution Unit)

Hazell, R., Worthy, B and Glover, M. The Constitution Unit (2010) *Does FOI work? The impact of the Freedom of Information Act on central government in the UK*, Constitution Unit, (Palgrave Macmillan).

Hazel et, al (UCL) Local government research *case for support* – http://www.ucl.ac.uk/constitution-unit/research/foi/foi-and-local-government/case-for-support

Two summaries of the work of the Constitution Unit are available at the following links:

Research Report – Hazell, R. and Worthy, B. UCL Constitution Unit (2009) *Impact of FOI on central government: Constitution Unit end of award report to ESRC* http://www.ucl.ac.uk/constitution-unit/research/foi/ESRC-end-of-award-short-summary

Non-technical summary http://www.ucl.ac.uk/constitution-unit/research/foi/ESRC-end-of-award-short-summary

Scottish Information Commissioner, *Freedom of Information Annual Report 2009*. See: http://www.itspublicknowledge.info/nmsruntime/saveasdialog.asp?lID=3616&sID=234

Spence, K. University of Strathclyde, (2010) *Volunteering Information: The use of Freedom of Information laws by the Third Sector in Scotland – Survey Findings:* http://www.itspublicknowledge.info/web/FILES/Volunteering_Information_Research_Report.pdf#search=

Further research findings and ongoing research can be found at: http://www.itspublicknowledge.info/home/SICResources/ResourcesCivilResearch.asp

The research is part of the **Civil Society Research Project** – undertaken by Kate Spence of the University of Strathclyde, and commissioned by the Scottish Information Commissioner.

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FOI request sample and response, courtesy of the National Housing Federation, on the subject of rural school closures – submitted in July 2009:

Request

Dear Freedom of Information manager

I am looking for information regarding the number of schools closed since 1997, particularly in rural areas. Under the terms of the Freedom of Information Act, I would be grateful if you could tell me:

1. **How many a) primary, b) secondary and c) nursery schools in England have closed in each year since 1997, broken down by local authority area?**
2. **How many of these schools were operating in rural areas?**

By 'closed' I am referring to schools that have ceased to be maintained and were not replaced.

I look forward to hearing back from you within 20 working days.

Many thanks,
National Housing Federation

Response:

Thank you for your email enquiring about School Closures.

Attached is a table which shows the number of schools which have closed since our records began in 2000. The table is split into 3 sheets, i.e. Primary, Secondary and Nursery. Each sheet is broken down by local authority area, the year, and urban/rural indicator.

[Please see the next page for the sample response]

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[Sample from spreadsheet of primary school closures]

	2000		2001		2002		2003		2004		2005		2006		2007		2008		2009	
	Urban	Rural	Urban	Rural	Urban	Rural	Urban	Rural	Urban	Rural	Urban	Rural	Urban	Rural	Urban	Rural	Urban	Rural	Urban	Rural
Barnsley															1					
Bath & North East Somerset											2									
Bedfordshire (Pre LGR 2009)							1	1												
Bezley																	1			
Blackburn with Darwin											1									
Bolton															1		1	1		
Bournemouth					2												1			
Bradford	1																			
Bristol City					1															
Bromley									1											
Buckinghamshire																		1		
Bury							2													

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Voicing your right to know: A guide to using Freedom of Information in campaigning

What is the potential of campaigning through our 'right to know' and what are the key benefits and challenges? How can we use FOI in campaigning most effectively? This guide enables campaigners to use Freedom of Information as an innovative campaigning tool, through exploring the themes, issues and insights raised throughout five key case studies. The case studies are supplemented by a survey of voluntary and community organisations as well as comments from campaigners, lawyers and individuals from the public sector.

As a fresh look at Freedom of Information legislation from the perspective of those who have used it and with those who we would encourage to use it in mind, the guide shares learning and develops key understandings, empowering campaigners to build on past experiences to remain at the cutting edge of voicing our 'right to know' – achieving significant campaign gains while opening up government.

Please contact NCVO on
020 7713 6161 for more information.

National Council for Voluntary Organisations
Regent's Wharf
8 All Saints Street
London N1 9RL

T: 020 7713 6161
F: 020 7713 6300
E: ncvo@ncvo-vol.org.uk
www.ncvo-vol.org.uk

Textphone: 0800 01 88 111

Free advice and support
www.askNCVO.org.uk
HelpDesk: 0800 2 798 798
or **helpdesk@askncvo.org.uk**

Charity Registration: 225922
SteersMcGillanEves Design 01225 465546